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Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia

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LIST OF ABBREVIATIONS

ACCU	Peasant Self-Defence Groups, Córdoba and Urabá
AIDS	Acquired Immunodeficiency Syndrome
ANTHOC	National Trade Union of the Health Sector Workers of Colombia
ASFADDES	Association of Relatives of Detainees and Missing Persons
AUC	United Self-Defence Groups of Colombia
CODHES	Advisory Office for Human Rights and Displacement
CONPES	Economic and Social Policy Council
CREDHOS	Regional Corporation for the Defence of Human Rights
CTI	Technical Investigation Unit of the Office of the Attorney-General
CUT	Trade Union Confederation
DANE	National Department of Statistics
DAS	Administrative Department of Security
DIAN	National Tax and Customs Administration
DIJIN	Judicial Police Office
DNP	National Planning Department
ECLAC	Economic Commission for Latin America and the Caribbean
ELN	National Liberation Army
EPL	People's Liberation Army
ERG	Guevara Revolutionary Army
ERP	People's Revolutionary Army
FARC	Revolutionary Armed Forces of Colombia
FECODE	Colombian Education Workers' Federation
FENALTRASE	National Federation of State Workers

GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
IACHR	Inter-American Commission on Human Rights
ICBF	Colombian Family Welfare Institute
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
INPEC	National Prison System Institute
IPC	People's Training Institute
MSF	Doctors Without Borders
OFP	Women's Popular Organization
ONUSAL	United Nations Mission in El Salvador
SAP	Early Warning System
SENA	National Learning Service
SIJIN	Judicial Police Section
SINTRAEMSDES	Union of Municipal and Departmental Workers
UC	Camilista Union
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UP	Patriotic Union
USAID	United States Agency for International Development
WFP	World Food Programme

Introduction

1. In a statement to the Commission on Human Rights at its fifty-seventh session, held in 2001, the Chairperson said that the Office of the United Nations High Commissioner for Human Rights in Colombia played a vital role in addressing the ongoing violations of human rights and international humanitarian law being perpetrated in Colombia and that the expansion of the Office was supremely important in that regard, and that the Commission encouraged the inauguration of field offices in Colombia. Furthermore, the Commission requested the United Nations High Commissioner for Human Rights to submit a detailed report containing an analysis by the Office in Colombia of the human rights situation in the country.

2. The Commission has been following the human rights situation in Colombia with concern for several years. This has been reflected in successive statements by the Chairperson. In 1996 the Commission requested the Office of the High Commissioner to establish an office in Colombia pursuant to the invitation extended by the Colombian Government.

3. The Office of the United Nations High Commissioner for Human Rights in Colombia was established on 26 November 1996 under an agreement signed by the Colombian Government and the then United Nations High Commissioner for Human Rights. Under the terms of the agreement, the Office is to observe and monitor the human rights and international humanitarian law situation in order to advise the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in the country. In that connection the High Commissioner would submit analytical reports to the Commission. This agreement has been extended for a fourth time, to April 2003.

4. The present report deals with the period January-December 2001, and is based on information collected by the Office of the United Nations High Commissioner for Human Rights in Colombia, either directly or through its interlocutors, and analysed by it. As part of its monitoring functions, the Office receives complaints and travels to regions of the country to observe first-hand specific situations related to its mandate. Through interviews and meetings with victims, witnesses, national and local military and civil authorities, and also through direct observation on its visits, the Office analyses the information collected and evaluates the behaviour of the parties concerned, both in terms of their involvement in the abuses committed and their responsibility for taking preventive or protective action. The Office then communicates its concerns to the competent authorities and makes such recommendations as it deems appropriate for tackling the various situations. As related activities, it also provides legal advice, technical cooperation and technical assistance to national institutions regarding its findings and analyses, and the obstacles and difficulties identified.

I. PROGRESS AND DIFFICULTIES IN IMPLEMENTING THE MANDATE OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN COLOMBIA

5. The previous year saw the emergence of various difficulties impeding the full discharge of its mandate by the Office of the United Nations High Commissioner for Human Rights in Colombia. These included difficulties in maintaining a dialogue with the Government. This

year, however, there has been progress in this regard. In response to this particular problem the Office drew up a report half way through the year, which it sent to the Government in July 2001, and which resulted in some progress. This report was presented as a contribution to the Government and the Colombian State as a series of practical proposals further to the Office's analysis of the human rights situation in Colombia in 2000. Based on the concerns expressed in that report, and bearing in mind the recommendations prepared further to its observations, the Office prepared a working tool for the Government which identified specific actions that it could undertake to implement the recommendations.

6. The Office felt it necessary and very useful, in order to discharge its mandate, to develop a programme of work with the Government so as to create a forum for discussion. By means of regular meetings at the highest level, the Office would monitor and would be fully informed of Government policy and projects and their outcome, so as to be able to correctly assess these in its documents and reports.

7. As a result of this significant effort and contribution by the Office, and of the positive assessment by the Government, a series of working meetings began in which each and every proposal and recommendation made by the Office in its report was discussed.

8. The High Commissioner feels that the creation of this forum for dialogue and discussion of State actions and policies in the field of human rights and international humanitarian law is very important, and thanks the institutions that participated in this exercise for their cooperation. Unfortunately this process began late in the year, in view of which it will not be possible to evaluate the results until next year for incorporation into the next report by the High Commissioner.

9. The interest and cooperation manifested by various State institutions, which maintained a regular and close relationship with the Office, represented an important element in the progress made by the Office in the implementation of its mandate and technical assistance activities (see chaps. II and VIII below).

10. The difficulties outlined in last year's report included a marked deterioration, objectively speaking, in the human rights and international humanitarian law situation in Colombia. This has led to the progressive closure of many avenues for participation, filing complaints, investigation and follow-up. The situation has had a direct impact on bodies working in the field of human rights, and has deteriorated further this year. The Office has maintained and increased its efforts to continue its work and monitor the situation in various regions of the country. Thus, it made progress in its preparations to open two sub-offices to provide an ongoing regional presence, thereby optimizing the discharge of its mandate and carrying out the recommendations of the Commission on Human Rights. It is also important to note that the Office is concerned about the difficulties relating to official human rights statistics. Occasionally the absence of statistics has made it impossible, not only for the Office but also for others, to form an accurate assessment of the extent of problems and to suggest appropriate solutions. Further, inconsistent statistics were found at various State and government bodies, which hampers efforts to deal with the various problems.

11. A further difficulty in the implementation of the Office's mandate is the presence of factors that make it difficult to determine how far responsibility for human rights violations extends and the degree of involvement of the various actors and authorities. Thus, such factors as impunity, problems in the administration of justice and the secrecy that surrounds the structure and operations of various groups mean that many of the acts falling within the Office's purview do not come to light for years; this makes it more difficult to identify any State responsibility.[1]

12. Unfortunately, statements by senior State officials indicate that they mistakenly view the pursuance by the Office of its mandate as undue interference in the country's internal affairs. Such statements by officials constitute a failure to respect the terms of cooperation provided for in the Agreement between the Government and the Office.

II. ACTIVITIES BY THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS IN COLOMBIA

13. In 2001 the Office continued its activities, seeking to further strengthen each of its work areas, namely, observation, legal advisory services and technical cooperation.

14. The complaints registered with the Office continued to be a significant source for discovering and understanding what was happening in the country. Altogether, 1,414 complaints were received in 2001, of which 1,052 were accepted. Some 194 written communications were sent to the authorities and direct follow-up was undertaken on numerous occasions. The Office made visits to various parts of the country, undertaking a total of 164 field visits and 277 workdays of activities outside Bogotá. The visits were mainly to regions where the severity of the human rights violations and breaches of international humanitarian law were of special concern to the Office, or where the Office saw an opportunity to avert such violations and breaches, and to areas where it was essential to assist victims.

15. The Office participated in a large number of legal advisory activities. For example, it provided legal opinions on the conformity of domestic legislation (e.g. National Security and Defence Act) with international human rights law. It also provided a legal opinion on evaluation of the Ministry of the Interior's programme for the protection of human rights defenders, journalists, and members of Unión Patriótica (Patriotic Union, UP) and the Communist Party. It attended several working meetings of committees and other bodies to press for investigations of human rights violations and breaches of international humanitarian law, devise programmes, identify ways of protecting and safeguarding human rights and press for follow-up on human rights-related recommendations.[2]

16. The Office produced two compilations: one was on international human rights, international humanitarian law, and international criminal law; the other was on national and international doctrine and jurisprudence on this subject. Additionally, it released a collection of recommendations that international human rights bodies had made to the Colombian State from 1980 to 2000, as well as producing a CD-ROM and creating a web site on the subject. During this period a new series of thematic publications was launched with the goal of promoting, disseminating and contributing to the analysis and interpretation of specific fundamental rights. In this series three publications were released: on economic, social and cultural rights; on human rights defenders; and on the rights of women. In addition, the book

Igualdad, dignidad y tolerancia: un desafío para el siglo XXI (Equality, Dignity and Tolerance: A Challenge for the Twenty-first Century) was published, as was a poster on the same subject. Also published was a compilation of general observations and recommendations by treaty-monitoring bodies, with the objective of contributing to the correct interpretation of the rights and obligations set forth in the instruments in question.

17. In conjunction with UNHCR and the non-governmental organization Consultoría para los Derechos Humanos y el Desplazamiento (Advisory Office for Human Rights and Displacement, CODHES), the Office published a *Compilación sobre desplazamiento forzado, normas, doctrina y jurisprudencia nacional e internacional* (Compilation on enforced displacement, national and international laws, doctrine and jurisprudence), which included the first Spanish-language version of the United Nations publication *Internally Displaced Persons - Compilation and Analysis of Legal Norms*, which sets out the guiding principles on internal displacement.

18. Concerning technical assistance and advisory services, the Office engaged in further dialogue and developed projects with the Colombian institutions responsible for the protection and promotion of human rights, as well as with non-governmental organizations and academic institutions. In this regard, the Office made a number of presentations on courses and at seminars for academics, lawyers, members of the judiciary, government authorities, law students and civil society in general. Of particular note were the presentations on respect for human rights and international humanitarian law and peace; the basic content of a global accord on human rights and international humanitarian law; the role of the United Nations vis-à-vis the situation of violence in Colombia; the International Criminal Court and efforts to combat impunity; economic, social and cultural rights; human rights defenders; and violence against women.

19. As part of its public information and promotion policy, the Office participated in numerous activities (seminars, forums, workshops and conferences). In terms of relations with the media, the Office organized a five-day workshop with reporters, as well as 25 meetings with journalists in Bogotá and 6 more in Medellín and Cali. It is worthwhile mentioning the Office's support for the diploma for journalists in armed conflict offered by the Corporación Medios para la Paz (Media for Peace Corporation), the programme for peace and the Javeriana University. The Office contributed to the module on the International Criminal Court in the peace diploma programme at the Sergio Arboleda University. The Office also supported a forum on economic, social and cultural rights, organized by the Fundación Social (Social Foundation) and ECLAC.

20. The Director attended a number of working meetings with the directors of the leading mass media organizations in the country. He also gave numerous interviews to the principal Colombian newspapers and international newspapers with correspondents in Colombia. A total of 1,000 reports concerning the Office and its activities were published in the press; 300 were broadcast on the television and 800 on the radio. The Office hosted 10 press conferences and issued 20 press releases. The Office also published 10,000 calendars for 2002 portraying women's issues; the calendars reproduced the Universal Declaration of Human Rights. The Declaration was also the theme of a series of posters on the Office's mandate and functions. In addition the Office reproduced 10,000 fact-sheets for children containing the Universal Declaration of Human Rights.

21. Starting in May, prior to the opening of the sub-offices in Cali and Medellin on 12 and 13 December respectively, the Office organized several workshops and held meetings with different sectors of civil society with the aim of giving civil society and regional authorities an opportunity to indicate their expectations concerning the Office's priorities in those regions and to reach consensus. The establishment of the new sub-offices has been helped by the cooperation extended by regional and national authorities. Both offices will become operational early in 2002.

22. So as to make its work more effective, the Office has developed a process of identifying and reworking its methods, objectives and procedures in the application of its mandate through the production of an internal observation and procedures manual. This new tool will contribute to improved coordination and more effective discharge of the Office's functions, and will enable the Office's work to have greater impact in the country, especially with regard to the challenges of expanding and consolidating its ongoing regional presence.

Advisory and technical assistance activities

23. Over the reporting period the Office emphasized the definition of a coordination mechanism for international cooperation with the objective of improving and making the fullest use of the assistance for human rights that the international community provides to Colombian institutions. On 13 August a workshop was held, attended by representatives of the diplomatic corps, cooperation agencies, United Nations agencies and national institutions. With the support of Canada, Spain, the Netherlands, the European Union, USAID, UNHCR, UNDP, the Office of the Vice-President, the Colombian Agency for International Cooperation, the National Planning Department and the Peace Investment Fund, it was possible to obtain data for a preliminary analysis of the state of technical cooperation for human rights. This analysis was preceded by a joint effort by the Spanish Cooperation Agency and the Office to develop a database of human rights cooperation projects. This tool could become a key element in orienting cooperation in the field of human rights and international humanitarian law.

24. The Office also continued its advisory and technical cooperation activities, in addition to those noted in chapter III of this report. In this regard, it signed an agreement with the National Learning Service (SENA) and the NGO Planeta Paz (Peace Planet) on the development of specific activities.

(a) Advisory cooperation for the design of a national human rights plan of action

25. In the context of the technical cooperation agreement with the Office of the Vice-President, the Office provided ad hoc advice to the presidential programme for the promotion of, respect for and guarantee of human rights in connection with the definition of a methodology to facilitate progress in the design of a national human rights plan of action. To date difficulties in the conceptualization of the strategy for its construction have hindered the emergence of any specific proposals on the content of such a plan. The Office has provided forums for dialogue between representatives of the programme and non-governmental organizations (NGOs) with the objective of seeking consensus on the latter's active participation in the design of the plan. For several months NGOs have said that they will not participate in

developing the human rights plan unless clear and respectful rules are established beforehand, and unless Government at the highest level makes a serious commitment to respect and safeguard human rights.

26. In recent months there appear to have been fewer opportunities to work with the participation of broad sectors of civil society on the task of developing the human rights plan. This is because many NGOs, trade unions and other democratic organizations have expressed serious dissatisfaction with the Government's National Security and Defence Act, and because of the anti-terrorist strategy.

(b) Cooperation for training in human rights and international humanitarian law

27. Over the reporting period the Office received constant and increasing demands for training and for publications on human rights and international humanitarian law. Of particular note was the decision by some bodies to adopt an institutional policy of training their officials in these areas. The Office provided assistance to institutional endeavours aimed at developing a training strategy for human rights and international humanitarian law characterized by coherence, permanence and ongoing evaluation of functional performance.

28. As a result of the Office's activities in the context of the agreements signed with the Supreme Judicial Council and the Attorney-General's Office, two compilations were released.

29. The institutionalization of the human rights and international humanitarian law course at the Attorney-General's Office School of Criminal Investigation and Criminal Studies and at the Supreme Judicial Council Rodrigo Lara Bonilla Judicial Training School, and the recommendations on training that the Office has made, have led to the establishment by these two judicial entities of medium-term training strategies for all their officials.

30. As a training method, the Rodrigo Lara Bonilla Judicial Training School is developing a module for self-education on human rights for magistrates and judges. A network of trainers and facilitators[3] is responsible for evaluating the progress of those taking the course. The Office is advising on the development of the module so that it will serve as a methodological tool to facilitate the study of the laws, the jurisprudence and the doctrine found in the compilations referred to above.

31. The Attorney-General's Office School of Criminal Investigation and Criminal Studies was affected by financial difficulties. This kept it from fully implementing its plan for training in human rights at the regional level. The Office, aware of the importance of human rights training for prosecutors, supported the plan with the participation of prosecutors who are members of the training network. The course was given in two regions, Medellín and Bucaramanga, with the participation of 56 officials, among them prosecutors, investigators and members of the Attorney-General's Office Technical Investigation Unit.

32. At the request of the United States Justice Department and the Attorney-General's Office, the Office and trainers from the Attorney-General's Office School taught the human rights and international humanitarian law course to 70 members of the new human rights satellite units in Medellín, among them three specialized prosecutors, four judicial procurators, judicial technicians and members of the Technical Investigation Unit, the Administrative Department of Security and the National Police.

33. At the invitation of the Procurator-General's Office, and with the support of USAID/MSD, the Office gave an intensive course on human rights and international humanitarian law to 35 regional procurators, almost all of whom had been recently appointed. It advised the Procurator-General's Office on incorporating the course in the regular training programme for local, regional and rural procurators. In conjunction with the team of advisers and delegates from that institution, discussion workshops were held on the Office's main issues of concern.

34. In the training programme for municipal ombudsmen, 15 workshops were held in 2001 with the participation of over 300 ombudsmen from 14 municipalities, with 20 from districts of Bogotá, and 40 officials from municipal ombudsmen's offices. Seventy per cent of the ombudsmen were new to their jobs. As a first step, the national consultants participating in the project undertook an analysis of training needs. This made it possible to decide on subject matter and to define commitments on the part of the Office of the Ombudsman and the Office of the Procurator-General, which were involved in the project. Both institutions named officials to act as directors for the subjects in the programme; under the guidance of the Office, they assumed responsibility for developing a new pedagogy and training methodology, as well as for developing materials for their workshops. As this project continues to develop, training is planned for the country's 1,100 municipal ombudsmen. To this end it will receive second phase financing from the European Union with the objective of extending training to the 800 municipal ombudsmen not yet covered by the programme.

35. A seminar workshop was held on judicial guarantees for management assistants at the National Department for Public Advocacy with the objective of requiring that public defenders take an active role in ensuring that these are respected. With a team of senior officials from the national departments, training was provided in international United Nations bodies and mechanisms for protecting human rights - their functions, reports, doctrine and jurisprudence.

36. The Office provided training to 14 United Nations system officials. Participative workshops were held to transmit basic concepts on human rights, international humanitarian law, and the universal system and the inter-American system for the protection of human rights. The participants were also informed about the 2000 annual report and the Office's mandate and human rights in terms of their place in the United Nations.

37. Participants' evaluations of the different courses have been very positive, highlighting the importance of continuing to offer these seminar workshops at the national level. The experience of training acquired over the past year has made it possible to consolidate methodology, validate content and materials, and share lessons learned with other judicial schools in the Andean region.[4]

38. The Office was active throughout the year, making speeches and presentations on human rights and international humanitarian law at different seminars.

(c) Cooperation for institutional strengthening

39. In the context of the agreement signed with the Office of the Ombudsman, the Office has published an analysis of service provision and presented it to the National Department for Public Advocacy. This document served as the basis for discussion with 42 academic coordinators, 55 implementation managers, and 35 regional and sectional public defenders from the Office of the Ombudsman. A subject that concerns the Office is the public defenders' lack of control over the protection of and respect for judicial guarantees. The National Department for Public Advocacy, with the Office's guidance, has adopted measures representing very significant changes in that institution. Of particular note are the separation of the administrative and management functions, the development of a set of general regulations for public advocacy, and modifications to the system for overseeing performance, among other matters.

40. The Office completed its analysis of the situation at the National Department for Examination and Processing of Complaints of the Office of the Ombudsman. The analysis highlights the institution's lack of resources and the need to define procedures consonant with the mission that the Constitution of Colombia assigns to the Office of the Ombudsman.

41. The Office also provided technical assistance to the Division for Criminal and Penitentiary Policy. To that end it organized a Mission of international experts who visited 15 jails, interviewed inmates, government and non-governmental authorities, defence lawyers and inmates' relatives, and drew up a technical-juridical report on the prison situation. The report indicates the human rights violations that are committed in Colombian prisons and suggests a series of possible actions for preventing and ending these.

42. The High Commissioner has repeatedly expressed her concern at the insecurity that affects those participating in the investigation of human rights violations as a result of impunity. In the context of technical assistance to the Attorney-General's Office, the Office carried out an analysis of the programme to protect victims, witnesses and participants in criminal cases and officials of the Attorney-General's Office. The report, submitted to the Attorney-General's Office, contains an analysis of the main problems affecting the programme's effectiveness and formulates a series of recommendations to improve performance. The Office is waiting for the Attorney-General's Office to implement the recommendations.

43. The Office has paid special attention to preventive action by the Procurator-General's Office. In the context of the Memorandum of Understanding signed with the Procurator-General's Office, the Office has provided support to the Division for Preventive Action on Human Rights and Ethnic Affairs of the Procurator-General's Office, so as to define and implement a policy for preventive action.

44. In terms of strengthening NGOs, in Medellín the Office held a regional seminar that was attended by 70 civil society representatives from Antioquia and Chocó. The seminar covered the Office's mandate, activities, potential and limitations.

45. The Office provided support to Paz y Tercer Mundo (Peace and the Third World) to host "Eastern Antioquia and the international community: respect for human rights and international humanitarian law and prevention of enforced displacement", at which the participants received information on the situation in that region and commitments were defined.

III. VISITS BY THE SPECIAL REPRESENTATIVE OF THE SECRETARY-GENERAL ON THE SITUATION OF HUMAN RIGHTS DEFENDERS AND THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN

46. The Special Representative of the Secretary-General on the situation of human rights defenders, Ms. Hina Jilani, visited the country from 23 to 31 October 2001 at the invitation of the Colombian Government. The purpose of the visit was to study and evaluate the situation of human rights defenders and the security conditions under which they pursue their labours in the context of the armed conflict in Colombia. Thus, one of the objectives was to examine the reports of threats to the personal integrity of human rights defenders and their organizations, as well as the conditions that undermine the rights enunciated in the "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms" (Commission on Human Rights resolution 2000/61).

47. The Special Representative met with the President of the Republic, civil and military authorities, judicial and oversight bodies, human rights defenders and organizations, and representatives of United Nations agencies and the international community. As well as visiting Bogotá, the Special Representative also visited Medellín and Barrancabermeja. She met with delegations from the departments of Tolima, Atlántico, Bolívar, Santander, Arauca, Putumayo, Valle, Cauca, Nariño, Casanare, Córdoba, Cesar, Chocó, and Urabá. She also spoke at a press conference for the leading national and international media.

48. The Special Representative's visit provided backing for the work undertaken by human rights defenders and their organizations, and contributed to highlighting the important role that the defenders play in strengthening democracy and respect for fundamental rights and freedoms. At the same time, the Special Representative's visit was an essential complement to the work of the Office.

49. The Special Representative expressed her concern at the climate of impunity that surrounds human rights violations in Colombia; she emphasized the importance of subscribing to a global accord on human rights and international humanitarian law, with the objective of ensuring respect for the civilian population's human rights, in particular respect for human rights defenders and their organizations.[5]

50. The Special Rapporteur on violence against women, Ms. Radhika Coomaraswamy, visited the country from 31 October to 7 November 2001 at the invitation of the Colombian Government. The purpose of the visit was to examine and evaluate violence against women in Colombian society and, in particular, in the context of the armed conflict.

51. The Special Rapporteur met with the Vice-President and other national government authorities responsible for gender issues, the Ombudsman, other competent State authorities and officials from judicial and oversight bodies, representatives of women's organizations (agricultural labourers, indigenous, Afro-Colombian and displaced persons), academics, reporters, and with representatives of United Nations agencies and the international community. In Bogotá, the Special Rapporteur met with women from Medellín, Putumayo and Norte de Santander, and from the Altos de Cazucá and Ciudad Bolívar districts of Bogotá. She also visited Cartagena and Cali, where she met with women from southern Bolívar, Cauca and northern Valle del Cauca. She also spoke at a press conference for the leading national and international media.

52. The Special Rapporteur expressed her concern at the problem of impunity in terms of violations of women's rights, especially those that take place or are aggravated as a result of the armed conflict. The Special Rapporteur placed particular emphasis on reports of sexual violence against women by illegal armed groups in different areas of the country, the situation of displaced women and the situation of women and girls who are combatants and former combatants.

53. The Special Rapporteur reiterated the importance of subscribing to a global accord on human rights and international humanitarian law. Such an accord should include special protection from sexual aggression and sexual slavery for women and girls. She urged the Government to advocate respect for displaced women, in particular for women heads of household, by means of economic and psychological support.[6]

IV. NATIONAL CONTEXT

54. The general context in Colombia during 2001 was marked by a series of events that explain and provide a better understanding of the country's critical situation. Among these it is worthwhile mentioning the peace talks between the Government and the guerrillas, including the different political positions concerning these talks, and the opposing strategies of peace or war. The electoral campaign in preparation for the upcoming presidential elections in May 2002 was also important. Another relevant element is the new world situation after 11 September, the date of the terrorist attacks on United States cities. Along with these, other problems have afflicted Colombia, such as the continued economic crisis, aggravated by world recession, and the continued, pernicious activities of the powerful drug trafficking networks.

55. Although some of the issues mentioned here will be discussed at greater length in other sections of this report (see chaps. V.E and VI.A below), this chapter briefly provides a general overview of them, without exhaustive analysis of each of the subjects mentioned. This is because, even though these issues impact on the pursuance of the Office's mandate and the human rights situation in the country, some of them are beyond the Office's specific functions and transcend the scope of its mandate.

56. Nonetheless it is appropriate to reiterate that the polarization that was noted in the previous report worsened over the year, in a dynamic directly affected by the subjects addressed in this report. This polarization explains, at least in part, the difficulties affecting the rule of law in Colombia, as it accentuates the divergent positions underlying repressive, military action at the expense of civil, democratic, preventive and peace-seeking strategies.

57. Throughout the year the unfolding of the peace talks with the guerrillas made manifest not only the difficulties in making progress towards agreements that would bring the prospect of a solution closer, but also the precariousness of the social and political support for the process. Growing criticism and the disenchantment of significant sectors of the population have given rise to policies and strategies that favour a military response. Armed groups had increasing recourse to violent actions that were apparently moves to bolster negotiating positions. The slim achievements in the peace process must be understood in the context of the worsening of the war, the progressive weakening of institutions and the rule of law, and the State's absence from vast swathes of the country, thus heightening the crisis of governability. In parallel with this, the Special Adviser to the Secretary-General continued his efforts to support the parties and promote the process of dialogue.[7]

58. The events of 11 September had two significant outcomes for Colombia: the adoption of a Security Council resolution against terrorism,[8] and the inclusion of the paramilitary groups in the list of terrorist organizations issued by the United States Government, on which the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia, FARC) and the Unión Camilista - Ejército de Liberación Nacional (National Liberation Army, UC-ELN) already appeared. These two developments have resulted in the questioning of armed action by illegal groups and the formulation of government strategies in the framework of the National Security Act, which contains provisions that contravene international standards and democratic principles (see comments, chaps. VII.B and VIII below).

59. In this context, and in response to incidents perpetrated by FARC - such as the kidnapping of three German aid workers from the Agency for Technical Cooperation (GTZ) and the former Governor of Meta, Alan Jara, who was removed from a United Nations vehicle protected by immunity - the international community has made stricter demands concerning behaviour by the guerrilla groups. In parallel, the resources of the anti-narcotics programme known as Plan Colombia were brought into play. This plan has sparked wide-ranging opposition and questioning of some of its strategies, such as the fumigation of illicit crops, because of possible side effects on humans and the environment.

60. Against this backcloth, and in particular the debate on criticism of the peace process, the campaigns by the presidential candidates, in a further demonstration of the polarization of society, reflect a cross-section of the more or less firm positions held regarding the future of the talks with the insurgent groups and the conduct of the armed groups.

61. In the context of the above situation, in which a considerable part of the population lacks viable political and social alternatives, it is worth stating that only a wholehearted commitment to the rule of law, democratic strategies and respect for human rights can ensure peaceful

coexistence. For this reason, there is greater relevance than ever in the recommendation by the Secretary-General and the High Commissioner for the adoption of a global accord on human rights and international humanitarian law as a minimum element in a plan which the parties must move towards in order to achieve a definitive negotiated solution and lay the basis for a solid and lasting peace.

V. SITUATION WITH REGARD TO HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

A. Conceptual framework

62. In compliance with the mandate of the Office of the United Nations High Commissioner for Human Rights in Colombia, the present report refers to both violations of human rights and breaches of international humanitarian law. Acts of commission and omission against rights embodied in international human rights instruments or international law in general are considered violations when perpetrated by public servants or by private individuals acting at the instigation or with the consent or acquiescence of the authorities.[9]

63. In the context of the armed conflict in Colombia, breaches of international humanitarian law, which are mainly committed by the direct participants in the hostilities, are acts or omissions contrary to article 3 common to the four Geneva Conventions, to Additional Protocol II and to customary law. In Colombia, international humanitarian law applies to the State, the guerrillas and the paramilitary groups.

64. In Colombia, the main insurgent armed groups (guerrillas) which oppose the State are the following: the Fuerzas Armadas Revolucionarias de Colombia (Revolutionary Armed Forces of Colombia, FARC), the Unión Camilista-Ejército de Liberación Nacional (National Liberation Army, UC-ELN) and the Ejército Popular de Liberación (People's Liberation Army, EPL). There are also paramilitary groups that refer to themselves as "self-defence groups" and claim to be purely counter-insurgent. The majority of these identify themselves publicly and collectively as the Autodefensas Unidas de Colombia (United Self-Defence Groups of Colombia, AUC), the strongest and best-known core group being the Autodefensas Campesinas de Córdoba y Urabá (Córdoba and Urabá Peasant Self-Defence Groups, ACCU).

B. State responsibility

65. In this section it is important to note the various forms of the State's responsibility for human rights violations and breaches of international humanitarian law.[10]

66. As stated above, as well as the direct actions or omissions of public servants, acts of individuals or groups that do not exercise public functions may also entail the international responsibility of the State. These actions or omissions are related to the obligations to protect, provide for and fulfil international obligations, including the enactment of relevant internal legislation, and to abstain from enacting legislation that is contrary to international laws, as well as to punish those responsible and to provide suitable redress for victims.[11]

67. On this subject, there are four types of conduct by individuals, acting alone or as members of groups, that are not subordinate to the State but that must be considered to have a bearing on State responsibility: (a) conduct instigated by public servants; (b) conduct engaged in with the express or tacit consent of public servants; (c) conduct engaged in owing to the manifest tolerance of State agents; and (d) conduct resulting from the State's failure in its duty to provide a guarantee. This last case is based on the tenet "The responsibility of the State can result not only from a lack of vigilance in prevention of injurious acts, but also from a lack of diligence in the criminal prosecution of those responsible and in the application of the required civil sanctions."[12] Although the State's obligation of prevention refers to preventing the means or the opportunity - not the result - and the fact that a violation has taken place does not mean that the State has failed to fulfil its duty, a key element in identifying failure to fulfil the obligation is the fact that failure has been systematic.[13]

68. As regards the type of responsibility, responsibility by omission occurs in the event of failure to fulfil the duty to provide a guarantee, to the extent that this failure is not deliberate and State agents did not participate in the preparation, concealment or abetment of the act in question. Responsibility by action occurs when State agents are found to have been involved in the preparation of the acts, or to have participated in them, or to have concealed or protected their perpetrators. On the basis of the existence of responsibility for the existence, development and spread of paramilitary activity, and the different types of conduct referred to above, the High Commissioner has reiterated in her various reports on Colombia that the actions of the paramilitary groups entail State responsibility for the violation of human rights.

69. International humanitarian law also imposes on States the obligation to respect and enforce these provisions, demanding not only negative action or abstention, but also proactive conduct to prevent and punish breaches, and protect the civil population, including the duty of assistance. Thus, the same criteria as those stated above are applicable in this area.

70. As a result of what is stated here and the Office's mandate in both fields, it should be emphasized that several of these types of conduct, when they take place in the context of the armed conflict, simultaneously and indiscriminately violate the various international instruments relating to human rights and humanitarian law. Thus, several of the cases discussed below are mentioned as examples of a given practice or type of conduct, but their inclusion in one chapter or the other (human rights or international humanitarian law) does not mean that they are excluded from consideration as a violation in the other area. Their absence from one of the categories should be understood as an effort to avoid repetition of examples.

C. General situation

71. What follows is a discussion of the situation with regard to various human rights, on the basis of what the Office has considered to be reliable information received in the course of its mandate of observation. First, the human rights violations are identified, and then actions constituting breaches of international humanitarian law are described.

72. The human rights violations are taking place in a context of serious, massive and systematic repetitive practices which are causing a steady deterioration in the situation. Because several of the violations are occurring on a large scale, massively and systematically, they also constitute crimes against humanity, according to the provisions of the relevant international instruments and customary international law.

73. The breaches of international humanitarian law also constitute a widespread practice occurring on a large scale, and several of them occur through the commission of war crimes whose main victims are members of the civilian population.

D. Civil and political rights

1. Right to life

74. Over the reporting period, extrajudicial executions constituted the most serious violations of the right to life. These took the form of individual and group killings, whose victims included people of all ages and status, including children, pregnant women and older persons.

75. Most of these executions appear to be politically motivated, but some of them were perpetrated against members of social groups that are discriminated against or marginalized, or against persons in a situation of "manifest weakness" owing to their financial, physical or mental condition (homosexuals, street vendors, drug addicts, needy persons, people with psychological disorders, street prostitutes, transvestites, street children, etc.). This practice would appear to indicate the existence of "social cleansing" campaigns.

76. The departments where most extrajudicial executions took place were Antioquia, Cauca, Sucre, Valle del Cauca and Tolima. Members of the paramilitary groups perpetrated a significant number of these executions. During 2001, the paramilitaries are considered to have been responsible for 89 massacres,[14] in which 527 people lost their lives. In several cases there were reports that members of the security forces and other State officials were involved in these killings.

77. Among the massacres resulting in the greatest number of victims were those in: Alto Naya (Cauca), 10-13 April 2001, 32 killed; Chengue (Sucre), 17 January, 24 killed; Buga (Valle), 10 October, 24 killed; Aguacatal (Cauca), 15 January, 10 killed; Río Bravo (Valle), 25 August, 9 killed; Frías (Tolima), 15 September, 9 killed; and Granada (Antioquia), 20 April, 7 killed.

78. It should be emphasized that during the period covered by this report paramilitary groups also carried out other attacks on the civilian population. Although these had less drastic effects than the massacres, those involved committed numerous individual executions. The Office was informed of cases in which the paramilitaries, after choosing their victims from a large group of people they had abducted, killed them individually or in small groups, leaving the bodies scattered in different locations. This took place in Salto Arriba (Antioquia) on 31 May, in El Obelisco (Cauca) in early August and in Santo Tomás (Antioquia) on 16 August. In Catatumbo (Norte de Santander) the paramilitaries set up illegal roadblocks at which they abducted a number of civilians and subsequently killed them.

79. During 2001 it became clear that the paramilitaries were committing certain extrajudicial executions in order to punish their victims for their political or social ideas, opinions or activities. This was the case with: Gilberto Zabala and Angela Andrade, a married couple killed on 6 August on the Tumaco-Pasto road (Nariño), who were leaders of the Movimiento popular multiétnico del litoral pacifico (Pacific Coast Multi-ethnic People's Movement); Doris Lozano, a trade union leader from Fusagasugá (Cundinamarca), killed on 16 August in a rural area in Sumapaz; and Octavio Sarmiento, member of the House of Representatives, murdered in Tame (Arauca) on 2 October.

80. Not all the extrajudicial executions took place in rural areas. The paramilitaries also committed massacres and individual homicides in urban areas, as in certain poorer districts of Medellín.

81. During 2001 the Office received reports from several areas of the country concerning the existence of criminal ties between members of the armed forces and members of paramilitary groups involved in perpetrating massacres (see chap. VI.B below).

82. In many cases extrajudicial executions would appear to have been facilitated by the failure of members of the official armed forces to fulfil their legal duty to protect and defend the victims. As mentioned above, some of these acts of omission could entail liability by commission, when the omission was deliberate, with the intention of allowing the crimes to be committed. In the case of the Alto Naya massacre, both our Office and the Office of the Ombudsman alerted the competent authorities to the deployment of an illegal armed group in the area. Despite this, the paramilitaries roamed through several places in the region over the course of a week, whereas senior army officers reported only clashes between irregular groups. The timely warnings did not prevent the paramilitaries from carrying out without serious hindrance their violent campaign in the Alto Naya villages of Patio Bonito, Río Minas, El Playón and others. Concerning the killings in Chengue and Buga, disciplinary and criminal investigations are under way to determine whether members of the security forces bear any responsibility for the acts of violence perpetrated by the paramilitaries in those places. The information obtained by the Office points to a high likelihood of responsibility by omission.

83. Numerous homicides attributed to paramilitaries were committed in urban areas. This was particularly the case in several municipalities in eastern Antioquia, such as San Carlos, and in Barrancabermeja. In the latter city, between 9 and 20 October, four trade union members and one member of an NGO fell victim to extrajudicial executions perpetrated by paramilitaries in the street, despite the presence of significant numbers of armed State security personnel.

84. There were also reports of extrajudicial executions attributed to members of the security forces. Between 26 August and 6 September, in the settlement of Santa Ana, municipality of Granada (Antioquia), as men from the army's Fourth Brigade were engaged in a military operation, several people were killed in incidents that took place, according to those making the reports, away from the fighting.

85. The Office has learned of some cases of violations of the right to life involving soldiers and policemen who were acting out of personal interest in lending their services as perpetrators or accomplices to a paramilitary group that is believed to have been responsible for multiple

killings of civilians. On 1 October in Maicao (Guajira), several soldiers fired at a residence where members of the Wayuu indigenous community lived, killing two of them. The incident was apparently the consequence of an indigenous family feud. On 30 May, an armed group raided the district of Los Tupes in the municipality of San Diego (Cesar) and threw fragmentation grenades at several dwellings. Eight people were killed, including five minors. Subsequently, the Attorney-General's Office detained two serving soldiers for their direct involvement in the incident, which was apparently motivated by a dispute between local residents. These cases are noteworthy for the ease with which members of the security forces have access to their service-issue weapons and make use of them for reasons entirely unconnected with their official duties.

86. Other violations of the right to life were the result of actions by State employees who caused death through the excessive use of force or negligent use of weapons. Despite the provisions of the National Police Code and other internal regulations on the subject, law enforcement officials do not always respect their obligation to employ legally authorized methods for keeping the peace or make use of methods and weapons that cause the least harm. Some of these incidents took place during student demonstrations at the University of Valle, the University of Nariño and the National University. In the case of the latter, a medical student was killed.

87. Article 57 of the National Security and Defence Act (No. 684) of 2001 provides that the legitimate use of force by members of the military and police forces in each operational situation shall be regulated by decree. The Office has had occasion to remind the Colombian authorities that the regulation of the use of force is related to protection of the right to life and that it is accordingly the exclusive responsibility of the national legislature to enact the laws that indicate how, when and where members of the security forces may use lethal weapons.

88. Among the violations of the right to life are death threats made by phone or by mail with the aim of intimidating the recipients into leaving the country or moving to another area, or of halting judicial or administrative proceedings intended to clarify human rights violations or war crimes. During the first 10 months of 2001, the Ombudsman's Office received 474 reports of death threats.

89. The victims of these death threats have included human rights defenders, trade union leaders, leaders of ethnic communities, reporters, officials and people who, as public servants, witnesses or victims, have been involved in criminal or disciplinary proceedings.

90. Threats have also been used to intimidate people who are the targets of extermination or so-called "social cleansing" campaigns. This was the case, for example, in Lorica (Córdoba), where in April paramilitaries made death threats against 28 people, whom they accused of using or selling drugs, considering them "harmful" to the "people of Lorica". A similar incident occurred in the municipality of Sahagún (Córdoba).

91. On other occasions threats are made in the presence of the people whom the paramilitaries wish to intimidate. An example is provided by the case of the residents of the settlements on the Cacarica river on 8 June, the members of the Carmen del Darién peace community on 2 August, or the García Montes family in San Carlos (Antioquia).

92. Finally, certain intimidatory practices engaged in by members of the security forces in different places around the country may be considered to constitute threatening behaviour. These practices include the involvement of hooded individuals in operations, as in Granada (Antioquia), the allegations that entire populations are collaborating with the guerrillas and the holding of censuses whose purpose is not explained to the citizens questioned. In particular, the Office received a report that intelligence service agents had been terrorizing the population of Loma Alta in Silvania (Cundinamarca) in order to elicit information about the guerrillas.

93. For actions and attacks perpetrated by the guerrillas and other armed groups, see section H.2 below.

2. Right to personal integrity

94. As in previous years, during 2001 there were further reports of torture with intent to punish or intimidate the victims, or to intimidate or coerce persons related to the victims. This took place as a prelude to extrajudicial executions by members of paramilitary groups, sometimes in the form of sexual violence against women. Not all acts of torture are recorded in the autopsy reports, particularly in rural areas. For these reasons the information on the action of the perpetrators of torture is limited and incomplete. The Procurator-General's Office reports that it has 45 disciplinary investigations of government employees under way for torture.

95. A retired navy non-commissioned officer reported that on 25 March 2001 a police van stopped him in Bogotá. About seven policemen pulled him into the vehicle where they handcuffed him and beat him with their fists and truncheons, leaving him incapacitated for 10 days. He was later released but not before the policemen had threatened to kill him if he reported the incident. In another incident, a criminal investigation is currently under way concerning the death of army second lieutenant Jorge Rodríguez Castillo, whose body bore signs of serious ill-treatment. The officer died in mysterious circumstances while attending a course at Tolemaida (Tolima).

96. As well as cases of torture, there were cases of cruel, inhuman or degrading treatment. These took place while members of the security forces were attempting to arrest people, move street vendors or squatters, break up public demonstrations or repress disturbances in prisons. The police's treatment of displaced people in Bucaramanga is a disturbing example of this problem (see chap. VI.C below).

97. There is a chronic pattern of cruel, inhuman or degrading treatment of prisoners in prisons and police stations. Detainees have to put up with extreme overcrowding, insanitary conditions, mixing of categories of prisoners, inadequate night-time privacy in cells, inadequate sanitary installations, lack of drinking water and personal hygiene items, non-existent or poorly organized health services and other forms of deprivation that are contrary to international standards relating to the treatment of prisoners. The situation of men, women and juvenile prisoners in the so-called "holding rooms" in police stations is especially inhuman (see chap. VI.E below).

98. Furthermore, there were reports of violations of the right to personal integrity through the excessive use of force. In Bogotá in late November, National Police officers, using disproportionate force, hit a number of girl students who were protesting in the street against the closure of two girls' schools. Several girls suffered bruising from blows with police truncheons and one injured her legs when the riot containment fence erected by the authorities fell on top of her.

3. Right to liberty and security of person

99. Enforced disappearances continued to be reported during the months covered by this report.[15] Members of paramilitary groups were blamed for a high percentage of these incidents, but cases were also reported in which those responsible may have been officials of the Colombian State or other individuals, with no ties to paramilitary activity, who were acting with the acquiescence of State officials. The Office received reports of the disappearance of five persons from an army detention centre during the Audaz military operation in the east of Antioquia. Indigenous, trade union and community leaders and municipal officials were the main victims of enforced disappearance. The Procurator-General's Office has reported that it is investigating 104 cases of enforced disappearance. Despite the new criminal legislation establishing penalties for enforced disappearance, the urgent search procedure provided for by law has not proved effective or flexible enough in several cases, highlighting the need for its further refinement.

100. Many enforced disappearances are perpetrated in the course of paramilitary raids that also result in extrajudicial executions and enforced displacement, making it difficult to estimate the number of victims of this atrocious practice. Only on rare occasions has it been possible to locate the bodies of persons whose whereabouts were unknown from the time the paramilitaries took them away. On 7 October, for example, paramilitaries entered Ciénaga La Aguja and Remolino (Magdalena), and took away around 20 people. The next day the lifeless bodies of six of them were found. Two turned up alive but the whereabouts of the others remain unknown.

101. Over the period covered by this report, members of the National Police continued to take people into custody without complying with the requirements for such action set out by the Constitutional Court in its judgement C24 of 1994. Frequently these "temporary arrests" are made on mere suspicion, violating the principles of need and proportionality, for purposes other than to check identity and verify the facts, exceeding the constitutional limit for detention and overtly disrespectful of the rights to equality and non-discrimination. Many of the people who are apprehended by the police without an arrest warrant and who are not caught in flagrante delicto are, in fact, deprived of their freedom simply because of the way they look or because of their social or economic status (see subsect. 5 below).

102. It should be added that article 58 of the National Security and Defence Act (No. 684) of 2001 authorizes members of the security forces to continue to detain people arrested in flagrante delicto and formally placed at the disposal of the judicial authorities by means of a verbal or written communication. This measure violates international provisions recognizing the right of all persons deprived of their freedom to be brought before a judge or other judicial authority without delay.

103. In accordance with the provisions of article 357 of the new Code of Penal Procedure, which has been in effect since 24 July 2001, pre-trial detention has continued to be the general rule. The Office considers that the widespread use of this practice violates international law, which only allows pre-trial detention in exceptional cases, for serious offences or when there is a danger that the accused may escape or impede the investigation.

104. During 2001, the Office also received reports of illegal or arbitrary arrests by members of the military forces and the National Police. These arrests usually take place in regions of the country patrolled by forces engaged in counter-insurgency operations. Generally, the victims of these violations of the right to individual freedom are local peasants, who are apprehended on charges of supporting the subversive groups, with the aim of getting them to guide the troops or provide information on guerrilla activity. The Office has received reports that members of the Army have engaged in this unauthorized practice in Arauca.

105. For cases of deprivation of liberty which also constitute violations of international humanitarian law, see section H below.

4. Right to freedom of movement

106. During 2001 there was continued infringement of the right to freedom of movement of all Colombians who need to use the country's roads and highways, as, because of the absence of State authority, illegal armed groups set up checkpoints, carry out attacks with explosives, abduct travellers and commit other crimes. This is particularly the case in the department of Norte de Santander and on the Medellín-Bogotá highway.

107. The Office is concerned that article 54 of Act No. 684 provides for "searching members of the public" in geographical areas classed as "theatres of operations" without clarifying the purposes and procedures for such action. The Act leaves it to the discretion of the military commander in charge of operational control of the area in question to coordinate these searches with the local civilian authorities.

5. Right to due process

108. According to an Office study, most cases in the criminal justice system involve flagrant crimes, which means that the security forces have brought the charges.[16] These forces have considerable discretion to effect arrests and charge a person with a criminal offence. The judicial authorities usually legalize the arrests and defence lawyers do not question them. This situation is even more disturbing in the light of the observations by the High Commissioner concerning arrests that are not in conformity with legal procedural requirements and are not subject to the necessary controls.

109. In this context, the entry into force of the National Security and Defence Act, which broadens the security forces' participation in investigations, granting judicial police functions to the military forces, is deeply disturbing. The possibility of judicially protected arbitrary or illegal arrests has a direct impact on guarantees of due process.

110. The right to be judged by a competent, independent and impartial tribunal, and guarantees of the independence and autonomy of judicial officials, have also been violated during the period covered by this report. In this connection, two cases that violate this right and judicial guarantee may be mentioned. First, the investigation of Colonel Rito Alejo del Río for links with the paramilitaries, in which the autonomy of the investigating prosecutor has been questioned (see chap. V' D below). Secondly, cases of human rights violations that are being investigated by the military criminal justice system (see chap. VI.D below).

E. Economic, social and cultural rights

111. The High Commissioner shares the concerns of the Committee on Economic, Social and Cultural Rights,[17] in particular those relating to the extreme inequalities in the distribution of wealth, social injustice and poverty in Colombia. These situations are aggravated by the armed conflict (see chap. VI.A below) and the steady increase in the phenomenon of displacement, which makes even more precarious the conditions in which the most vulnerable population groups (agricultural labourers, indigenous people, Afro-Colombians, women, children, displaced persons and the poor) live. Despite its awareness of the effect of the violence and the context of world recession, the Office did not detect sufficient political will to combat discrimination in the enjoyment of economic, social and cultural rights.

112. Poverty is even greater in the rural areas, where that State has not carried out genuine agrarian reform and where the effects of the armed conflict are most harmful. This situation affects agricultural labourers in particular. Approximately 8 million inhabitants of rural areas, representing 68.9 per cent of this population, live below the poverty line. Of these, 4.4 million live in abject poverty.[18] Women are more vulnerable to the widespread poverty in Colombia because of the failure to make progress and the decline in gender equality. Women make up about 52 per cent of the total population of the country and account for 54 per cent of the impoverished population. This situation particularly affects indigenous women, Afro-Colombian women and displaced women.[19]

113. The High Commissioner notes with concern that Colombians' purchasing power continued to decline. According to the latest figures from the National Planning Council, per capita income fell 5 percentage points in 2001, and 77 per cent of workers earned less than twice the minimum wage, whereas a consumer basket of goods for a family costs 2.4 times the minimum wage. The High Commissioner shares the concern of the Committee on Economic, Social and Cultural Rights in stating that the minimum wage is not sufficient to ensure a decent standard of living for workers and their families. Also, according to the Office of the Presidential Adviser on Equity for Women, women earn 25 per cent less than men, a fact which underlines the persistent disparity in this area.

1. Right to work and trade union freedoms

114. In this area, there has been a disturbing increase in unemployment, with significant effects on young people and women. According to the National Department of Statistics (DANE), unemployment in Colombia during the first nine months of 2001 was 14.3 per cent; in

other words, 5,797,935 people were unemployed. According to information from the Office of the Ombudsman, during the first quarter of 2001 the unemployment rate in the country's seven major cities was 20.2 per cent; in June in Bogotá, the rate was 18 per cent. The Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo (Colombian Platform on Human Rights, Democracy and Development)[20] states that unemployment reached 34.8 per cent among young people aged 24 or under. This situation is even worse for women in the same age range, with unemployment reaching 51.9 per cent and 39.1 per cent respectively.[21] It should be stressed that the increasingly frequent guerrilla attacks on infrastructure have had a negative effect on enjoyment of the right to work and job creation (see chap. VI.A below).

115. The High Commissioner notes with concern the situation of "community mothers", many of them heads of household, who do not even receive the minimum wage because they are not recognized as workers. This situation is worsened by the cutback in the budget for the Colombian Family Welfare Institute's "Community mothers programme". This programme provides care for nearly 1.3 million children.[22]

116. Over the reporting period violence against trade union movements continued to increase, affecting the right to work and trade union freedoms. Violence against businessmen and shopkeepers also increased, with serious repercussions on work and employment. The Office's concerns about this situation are set out in sections A and G of chapter VI of this report.

2. Right to education

117. It is difficult to analyse education in Colombia because of deficiencies in the statistical information available. However, a report on the situation of basic, middle-level and higher education in Colombia[23] presents official statistics that substantiate some of the High Commissioner's concerns on the subject of education. Regrettably, it is apparent that the goals set in order to bring about universal basic education have not been attained. According to this report, 18 per cent of the population of rural areas are still illiterate. In addition, the Committee on Economic, Social and Cultural Rights lists the low rate of adult literacy among its concerns.

118. Inequity in terms of access to education also persisted. According to the above-mentioned report, 2,035,607 boys and girls have never gone to school. The statistics compiled in this report indicate that in 2000, whereas practically all children aged 7 to 11 from the 30 per cent of the population with higher incomes attended school, about 11 per cent of the 30 per cent of the population with low incomes did not. Although the report notes that the latter now have increased opportunities to attend school, these have not been sufficient to ensure universal access. This situation is worsened by the dropout rate and the lack of places in schools. In rural areas 30 per cent of children drop out of school. The departments of Huila, Guajira and Valle del Cauca are the worst affected, with the lowest rates of primary school enrolment. Displaced children are particularly affected in terms of access to education.

119. The right to education is also infringed in that violence has given rise to threats against, and murders and displacements of, teachers. The Office continues to be concerned about the situation of members of the Colombian Education Workers' Federation (FECODE) (see chap. VI.G below).

3. Other rights

120. According to data submitted to the Committee on Economic, Social and Cultural Rights, 43 per cent of the Colombian population do not have social security coverage. This demonstrates the limitations on the Colombian population's access to health care. The Committee also highlights the cutbacks in subsidies for health-care services, making access even more difficult for women, children, Afro-Colombians, and indigenous and displaced persons. This situation is worse in rural areas, where there is less health-care coverage than in urban areas. National vaccination campaigns have also been cut back, increasing the risk of a variety of infections and diseases, especially among children. The Office notes with concern the violence perpetrated against members of the National Trade Union of Health Sector Workers of Colombia (ANTHOC), and the attacks by armed groups on medical missions and medical transport vehicles, seriously affecting the provision of health care to the population (see chap. VI.G and section H below).

121. The economic crisis has seriously affected the right to housing, making it more difficult for the population to gain access to decent housing. This situation is aggravated by the substantial cutback in the State housing subsidy. There has also been a decline in housing quality in terms of space and structure; Sucre, Córdoba, Bolívar and Magdalena are the most seriously affected departments.[24]

F. Women's rights

122. The Office notes with concern that the situation of women continues to be affected by violence, discrimination and inequality between the sexes. The Colombian State's lack of a comprehensive policy on women has aggravated this situation. Violations of women's rights are also aggravated by the intensification of socio-political violence. According to the report by the working group "Women and armed conflict, November 2001",[25] between October 2000 and March 2001, 189 women lost their lives because of socio-political violence. In other words, one woman died every day because of this kind of violence in Colombia. Every day, on average, one woman was killed in an extrajudicial execution or political homicide; every 10 days one woman became the victim of an enforced disappearance; every 17 days one was the victim of a homicide against socially marginalized groups; and every 25 days one was killed in combat.

123. The visit by the Special Rapporteur on violence against women made it possible to further the study of the various forms of violence against women in the context of the armed conflict.

124. The Office has received information on acts of sexual violence against women and girls, perpetrated mainly by members of the illegal armed groups. If the frequency of these incidents continues to increase, the phenomenon could take on even more disturbing dimensions. However, very few abuses against females are investigated and brought to trial because the victims refrain from reporting them, out of shame, fear or lack of faith in the judicial system. The lack of judicial records of sexual offences means that the perpetrators enjoy impunity and that the authorities have not implemented prevention, protection or follow-up mechanisms for this sort of crime. According to the information provided, in some paramilitary massacres the killers raped women before killing them, as at El Salado and Apartadó.[26]

125. The Office has also received reports of acts of sexual slavery of girls and women, mainly at the hands of members of illegal armed groups. According to the reports, several women have been deprived of freedom and held captive on rural estates, where they have been forced to have sexual relations and do domestic work. Other reports state that frequently women's rights are abused simply because they are the wife, partner, mother, sister, fiancée or friend of a man from the opposing side. The women who have suffered sexual aggression reportedly include a considerable number of indigenous or Afro-Colombian origin.

126. The Office notes with concern the situation of displaced women. According to the statistics published in the activities report of the Social Solidarity Network (January 2000-June 2001), during this period women made up 50 per cent of the displaced population. Out of a total of 283,734 people displaced during that period, 139,029 (49 per cent) were women and 144,705 (51 per cent) men. Caquetá, Cundinamarca, Risaralda, Antioquia and Cesar were the departments which recorded the largest numbers of displaced women (see also chap. VI.C below).

127. Displacement has a greater impact on women, in both psychological and social, economic and cultural terms. Furthermore, they are discriminated against not only because they are displaced, but also because they are women, or indigenous or Afro-Colombian. Poverty has more serious effects on displaced women who are heads of household and resettled in marginal areas. The Office has also received information on the overcrowded living conditions for displaced persons and the frequent cases of sexual abuse of women, leading to an increase in sexually transmitted diseases. The health-care services are not comprehensive and do not include, for example, psychosocial care for women who have been sexually assaulted.[27]

128. The situation with regard to the rights of women and girls in the ranks of the illegal armed groups continues to be a cause of concern to the Office. There are women and girl combatants who have been sexually abused by their superiors; most of them are forced to take birth control pills and there have been cases where women have been forced to have abortions. There is no special programme for reintegrating female former combatants into society. In November 2001, a UNIFEM Mission visited the country to undertake a global evaluation of the impact of the war on women and the role of women in building and consolidating peace. In this connection, the Mission mentioned the need to include women in the peace process.[28]

129. Women's organizations and women leaders, especially agricultural labourers, indigenous and Afro-Colombian women, are threatened and persecuted for the work they do to defend their rights and improve the living conditions of their communities. This is the case with NGOs such as the Organización Feminina Popular (Women's Popular Organization, OFP), the Asociación Nacional de Mujeres Campesinas e Indígenas de Colombia (National Association of Peasant and Indigenous Women of Colombia, ANMUCIC), and the Fundación Santa Rita para la Educación y Promoción (Santa Rita Foundation for Education and Advancement, FUNSAREP). Aside from the armed conflict attention must be drawn to the numerous cases of trafficking in human beings and social cleansing directed against female drug addicts, prostitutes and lesbians.

G. Rights of the child

130. Children's rights are even more affected by the consequences of the armed conflict and the socio-economic crisis. According to information sent to this Office by the Ombudsman, the basic needs of 54 per cent of the child population go unmet and 10.28 per cent live in extreme poverty.[29] The situation of child victims of the armed conflict and the subject of recruitment are addressed in section H.6 below.

131. The Office is also concerned about displaced minors. According to statistics from the Social Solidarity Network, of the 213,855 people who were displaced between January 2000 and June 2001, 103,403 (48.35 per cent) were under 18. Considering the upheaval of displacement, which directly affects children's development and emotional stability, the psychological care that displaced minors receive does not appear adequate for their needs. In cases where a minor is able to go to school, he or she is stigmatized and finds it difficult to integrate with the children of the receiving communities.

132. Concern about access to education is addressed in section E above.

133. According to information from the Office of the Ombudsman and the Ministry of Labour IPEC-ILO Programme (International Programme on the Elimination of Child Labour), in Colombia there are 2.7 million children working in conditions that are highly dangerous for their mental and physical health. Of these children, 1.7 million are aged between 12 and 17 and 800,000 between 6 and 11. Eighty per cent of the children work in the informal sector of the economy, 50 per cent of children aged 12 and 13 do not receive a direct income but some other sort of remuneration, and their pay varies from 25 to 80 per cent of the legal minimum wage.

134. According to the Colombian Family Welfare Institute (ICBF), around 25,000 children are sexually exploited; of these 14,400 have received care from ICBF. This situation is alarming and requires more resolve from the Colombian State to fight these crimes. In addition, the Committee on Economic, Social and Cultural Rights has expressed concern about the situation of street children.[30]

H. Main breaches of international humanitarian law

1. Homicides and threats against protected persons

135. The guerrilla and paramilitary groups continued carrying out homicides against people who are not directly involved in the hostilities. The paramilitary groups occasionally benefited from State acts of commission or omission.

136. The main armed groups, FARC, ELN and AUC, killed residents of the zones under their military control, and people coming from zones under the control of their enemies, on mere suspicion of collaboration with the enemy or, increasingly, for motives related to drug trafficking.

137. In several of the regions where the paramilitaries and the guerrillas are battling for control the former control the urban areas and the latter control the rural regions, as in the case of Puerto Caicedo and Villagarzón. Those who dare venture from one sector to another run the risk of becoming the target of one of the armed factions. Thus, in the department of Antioquia, the inhabitants of some municipalities are referred to as guerrillas and the people from other areas are considered paramilitaries. At the roadblocks that the armed groups set up in the region, having the wrong sort of identity card could mean death. The paramilitaries target the inhabitants of the rural areas in the department of Guaviare as they approach the departmental capital of San José de Guaviare. The inhabitants of the urban centre face the same fate if they venture forth into the rest of the department, which is controlled by FARC guerrillas.

138. Generally, when the armed factions arrive in a territory that they have recently captured, they proceed to threaten and kill the opposing band's alleged collaborators. Thus, as AUC groups expanded their domain into the urban centres of the department of Putumayo, they perpetrated numerous civilian homicides. In the settlements of La Gabarra (Norte de Santander), FARC undertook an offensive to recover territorial control and killed numerous coca plantation workers in the process.

139. This year mayors, indigenous leaders, health-care workers, shopkeepers, presidents of community action boards and, above all, agricultural labourers, fell victim to the guerrillas and paramilitaries. Among others, FARC killed the mayors of Juradó (Chocó) and Puerto Rico (Caquetá). The indigenous communities were the victims of both the guerrillas and the paramilitaries for opposing the armed groups' use of their territories.

140. The armed groups are carrying out more of the homicides known as "selective killings". Occasionally, their modus operandi is to capture the victims and subsequently take them to areas adjacent to the town. The bodies are later found in fields, rivers, buried, or they simply never reappear. AUC perpetrated incidents such as these in eastern Antioquia, Chocó and Putumayo, although they did not get much coverage in the media. In turn, FARC have killed civilians in the areas bordering the demilitarized zone, in order to avoid news getting out.

141. Both the paramilitaries and the guerrillas continued to commit collective homicides or massacres, the paramilitaries being mainly responsible. The State's responsibility, by acts of commission or omission, has been called into question concerning several of the massacres perpetrated by the paramilitaries. The corresponding criminal and disciplinary investigations are under way (see chap. VI.B below).

142. In February, FARC killed nine hikers who were visiting the Puracé National Park (Cauca). On 22 May, FARC captured 11 members of the same family, among them a woman and a two-year-old child, as they were travelling on the Sinú River (Córdoba) in a boat. One of them managed to escape, but the others were executed and decapitated, and the bodies were dumped in the river. On 16 July, ELN killed three women and one man in Granada (Antioquia), accusing them of having connections to members of the security forces. On 10 October, members of the AUC Calima Bloc raided the settlements of Alaska, La Habana, and Tres Esquinas on the outskirts of Buga (Valle del Cauca) where they killed at least 24 civilians who were completely defenceless.

143. The Office has also received reports of the guerrillas killing members of the security forces whom they had captured, despite the fact that under international humanitarian law there is an obligation to respect their life and personal integrity. On 6 October, FARC killed two policemen whom they had captured at a roadblock near Barbacoas (Nariño).

144. Death threats are the mechanism that the armed groups use most frequently to get rid of people considered "undesirable" because of their alleged collaboration with the "enemy" and to take over their property or to motivate them to displace. Furthermore, threats continue to be the means used to force shopkeepers, businessmen, cattle ranchers and other groups in the economic sector to make payments to the different armed groups. In the Department of Casanare, merchants must pay "taxes" to FARC, ELN and the Autodefensas Campesinas del Sur del Casanare (Southern Casanare Peasant Self-Defence Groups). In San Carlos (Antioquia), shopkeepers must go to the paramilitary camp in El Jordán each month to pay their "taxes". Also, the different armed groups have resorted to threats to hinder the free expression of ideas, to block social projects that are contrary to their political platform, and the public condemnation of their actions.

145. The Office has received reports that during military operations, members of the army have threatened the civilian population by announcing the imminent arrival of the paramilitaries. The Office has received reports about this in reference to the military operations that were undertaken in the department of Arauca during July.

2. Attacks on the civilian population and indiscriminate attacks

146. Attacks on the civilian population and indiscriminate attacks are prohibited under international humanitarian law because they are conducted with disregard for the principle of proportionality and the distinction between military objectives and civilian persons and property.

147. Attacking the civilian population is the main strategy employed by the paramilitary groups. As well as the massacres already mentioned, on 30 May an AUC group raided the district of Los Tupes in the municipality of San Diego (Cesar), where they threw fragmentation grenades at several houses, killing eight, including five minors. In the investigation of the incident, members of the army battalion stationed in Valledupar were found to have been involved.

148. The guerrilla groups continued carrying out indiscriminate attacks and claiming victims among the civilian population. On 5 January in Barrancabermeja (Santander), ELN detonated a bomb meant to attack a police vehicle. A local shopkeeper and her son were killed in the explosion and another 15 people were wounded, including 7 minors. On 15 August, FARC used gas tanks to attack the municipality of Anzoátegui (Tolima). One child was killed and several houses adjacent to the police station were destroyed. During the last week of August, FARC attacked the police station in Santa María (Huila), leaving one civilian dead, four wounded and a considerable number of the town's buildings destroyed.

149. In terms of the security forces, the Office has received information that members of the army have directly attacked the civilian population. On 1 October in Guajira, a group of soldiers from the Majayura base opened fire on a house where 13 civilians of the Wayuu indigenous community were gathered. Two men were killed and a woman and her six-month-old baby were wounded. There were other occasions when members of the army were responsible for the death of civilians. The Office has learned that on 19 September, an army patrol shot and killed Mr. Eduardo Ariza Casalla, 57, in a rural area outside San José de Guaviare.

150. There have also been reports of members of the security forces or the guerrillas making use of civilian houses, thus endangering the population in case of clashes.

151. Both FARC and ELN guerrillas have endangered the lives of civilian hostages held captive by dressing them in camouflage fatigues. This is a breach of the international humanitarian law requirement that combatants must differentiate themselves from the civilian population. For example, this was the case of former Minister of Culture Consuelo Araújo Noguera, in FARC captivity, who was found dead in camouflage fatigues (see subsect. 5 below).

3. Terrorist acts

152. ELN and FARC guerrillas perpetrated terrorist acts. Terrorist acts and violent acts and threats aimed at terrorizing the population are prohibited under international humanitarian law. Some indiscriminate attacks are also considered to be terrorism.

153. On 10 August, ELN detonated a bomb near the police station in the municipality of San Francisco (Antioquia), killing three children, wounding several others and destroying close to 30 homes. On 21 October, the ELN used 50 kg of explosives to attack a residence in the municipality of El Peñol (Antioquia), killing five, including a baby. On 22 October, FARC carried out a terrorist attack on the oil pipeline near Riohacha (Guajira), resulting in the death of a woman and her four young children.

154. On 21 May, a car bomb loaded with 250 kg of high explosives was defused outside the offices of the weekly newspaper *Voz* and the Unión Patriotica headquarters in Bogotá. AUC claimed responsibility.

155. Paramilitary groups frequently resort to violent acts and threats with the purpose of terrorizing the population as reprisals, to make people accede to their demands, out of regional economic interests or to cause the displacement of population (see sects. D.1 and F above and chap. VI.B below).

156. There have also been reports of practices and threats by members of the security forces to terrorize the civilian population (see sects. D.1 and F above).

157. In other cases, those behind the terrorist attacks have still not been identified, such as the case of the car bomb that went off on the night of 17 May in Lleras Park in Medellín, killing 8 and wounding 138. On the morning of 25 May, two explosives were detonated, one shortly after the other, in a busy sector of Bogotá near the National University, killing 4 and wounding 31.

4. Torture and ill-treatment

158. Both the paramilitary groups and the guerrillas have tortured their victims before killing them. Many bodies have been found mutilated and with signs of torture. In some cases the paramilitaries have raped female victims before executing them. On 3 October AUC tortured and then murdered three anti-narcotics agents and three civilians on the Caribbean Highway, between Santa Marta and the department of Guajira.

159. The military have informed the Office that the bodies of members of the security forces, whom the guerrillas have killed, showed signs of torture or mutilation.

5. Taking of hostages[31]

160. The vast majority of the hostages taken in the context of the Colombian armed conflict are captured for the purpose of collecting extortion money, which is a source of financing for the armed groups. Colombia has the sad distinction of being the world leader in this area. According to the Fundación País Libre (Free Country Foundation), between January and November 2001, 2,856 kidnappings were perpetrated, of which 875 are attributed to ELN, 714 to FARC, 260 to paramilitary groups, 100 to the Ejército Revolucionario del Pueblo (People's Revolutionary Army, ERP), 20 to EPL, 11 to the Ejército Revolucionario Guevarista (Guevara Revolutionary Army, ERG), and the rest to common criminals or unidentified perpetrators. The departments most affected were Antioquia and César, with 20 per cent and 14.4 per cent respectively.

161. Although in September FARC promised the Government that they would cease their "lucky catch" roadblocks or group kidnappings, they continued this practice. On 26 July FARC took 16 people hostage in an apartment building in Neiva (Huila), subsequently taking them to the demilitarized zone in Caquetá department.

162. Some hostages held captive by guerrillas were killed by them. On 24 September, 15 minutes away from Valledupar (César), Frente 59 of FARC kidnapped former Minister of Culture and wife of the Procurator-General, Consuelo Araújo Noguera, along with 30 others. One person was killed at the roadblock. On 29 September the army found Mrs. Araújo Noguera's lifeless body.

163. Hostage-taking affected all social groups, especially shopkeepers (11.8 per cent) and numerous foreigners.[32] On 18 July, FARC kidnapped the Cauca director of the German technical cooperation agency GTZ (see chap. IV above), and technical inspectors who were reviewing projects on the Quisgó indigenous reserve in Silvia (Cauca). They remained in captivity for two months before being released.

164. Minors were also the victims of this practice. A child, Andrés Felipe Navas Suárez, was held in the demilitarized zone until 10 October, when he was released, after a year and a half in captivity. In this, as in other cases, the lengthy captivity and the hardships faced by the hostages took their toll on their physical and mental health (see paras. 168-172 below).

165. FARC took many other hostages to the demilitarized zone, where they were held for lengthy periods, as in the case of former Meta Governor Alan Jara, who was kidnapped on 15 July in Lejanías (Meta). At the time that this report was written, he was still in FARC captivity in the municipality of La Macarena (Meta). Inhabitants of the regions that border the demilitarized zone, in particular those from the department of Huila, have been taken to the zone and their families have had to negotiate ransom fees with the guerrilla group. In their application of "Law 002", FARC have taken hostage persons whom they claim have not made a financial contribution to the armed group.

166. In the eastern part of the department of Antioquia, ELN has carried out a systematic and indiscriminate campaign of group kidnappings for ransom.

167. The paramilitary groups have increasingly engaged in this practice, so as to finance themselves or for allegedly "political" reasons. On 25 April in Yopal (Casanare), members of the Southern Casanare Peasant Self-Defence Groups abducted Diana Reyes Plazas, departmental internal affairs secretary, apparently with the intent of pressuring the governor. To date, she has not been released. This same group also perpetrated group abductions so as to forcibly recruit youths, as occurred on 15 May in Villanueva (Casanare), when 200 workers at a palm tree plantation were kidnapped.

6. Children as victims of the armed conflict and recruitment

168. Children continued to be among the main victims of the armed conflict, despite the special protection provided them under humanitarian law. The Office received numerous complaints that the different guerrilla and paramilitary groups have continued to recruit children under 15 years of age. The paramilitary groups, FARC and ELN, have forcibly recruited minors for their ranks.

169. Children were also the victims of anti-personnel mines and home-made explosive devices planted by the guerrillas. Examples of the former are mentioned below, in subsection 10.

170. On 21 March, in Bocas de Satinga (Nariño), two children, 8 and 10, were killed when an abandoned grenade exploded among the ruins after a FARC attack in the locality. On 25 March, a 13-year-old child was wounded while handling an explosive device that he found on the road in the district of Miraflores, municipality of Pisba (Boyacá). One of the child's hands had to be amputated because of his injuries.

171. According to the Free Country Foundation, 103 children under 12 were taken hostage between January and September 2001.

172. The Office has received reports of guerrilla commanders sexually abusing girls serving in their ranks; the same is true of members of the paramilitary groups. It has also received reports that the Southern Casanare Peasant Self-Defence Groups have abducted young women for sexual purposes.

7. Enforced displacement

173. Enforced displacement continued to be one of the aspects of the Colombian armed conflict that most strongly affected the civilian population (see chap. VI.C below). The armed actors use death threats to rid their territories of persons accused of collaborating with the other side, and to usurp their properties.

174. Causing mass exoduses by means of terror was one of the armed group's warfare strategies. Sometimes, displacement was sparked by the fear that the arrival of one of the armed groups was imminent. The groups did not always have to make specific threats, since the population already knew what to expect if they were to turn up. Other displacements took place in the aftermath of massacres. On 1 January, ELN forced 1,100 peasants in the eastern part of the department of Antioquia to move, as retaliation for a similar action by AUC involving people who lived near the Medellín-Bogotá highway.

8. Violation of the protection of medical workers and attacks on medical units and transport

175. Both the guerrillas and the paramilitaries flaunted their complete disrespect for medical missions and the protection of the sick and wounded. On 6 March, AUC members intercepted a Colombian Red Cross vehicle that was transporting a wounded guerrilla fighter from San Alberto (Cesar) to a hospital in Bucaramanga (Santander). They removed the patient and killed him. This incident sparked the ICRC and Colombian Red Cross decision to suspend transport of the wounded throughout the country. On 13 August, 10 armed FARC members entered the San Ricardo Pampuri Hospital in Saravena in search of patient Vellanith Mendoza, who was there recovering from a murder attempt perpetrated the day before. The patient was taken out by the main door of the hospital and shot to death.

176. On several occasions, the armed factions have forbidden the use of the roads, either by means of what they term "armed work stoppages" or by establishing regular hours for use. Sometimes this prohibition has been applied to ambulances, resulting in the patients' death for lack of adequate medical care.

177. There have been cases of the armed actors entering hospitals, interfering with medical care and threatening patients, as took place in a hospital in San José de Guaviare where AUC members prevented inhabitants of the rural areas from receiving care.

9. Attacks on civilian property

178. Indiscriminate guerrilla attacks have caused significant damage to civilian property. During the FARC attack on San Adolfo (Huila) on 2 September, some 20 buildings adjacent to the police station were destroyed.

179. Attacks by the different armed groups culminated in looting and vandalism, as in the case of the paramilitary raid on the settlement of La Argelia in Carmen de Atrato on 18 April.

180. Concerning the attack allegedly perpetrated by members of the army in Guajira it was reported that after approximately 50 minutes soldiers entered the house and began to divide up everything of value that was found there, including clothing, cash, foodstuffs, identity cards, mobile phones and jewellery belonging to the deceased (see subsect. 2 above).

181. The frequent FARC and ELN attacks on the Caño Limón-Coveñas oil pipeline in the department of Arauca have caused extensive and serious damage to the environment, in particular to drinking water sources (see chap. VI.A below).

10. Use of anti-personnel mines

182. The guerrilla groups continued to use anti-personnel mines, endangering the civilian population, especially children, and disregarding the principle of distinction. ELN placed mines on the highway from Quibdó to Carmen de Atrato and in central Atrato. They cited their conflict with FARC in the region as justification.

183. Among the examples of the vulnerability of children in this respect, it is worth mentioning that on 21 March in Felidia (Valle del Cauca), a child was killed by an anti-personnel mine allegedly left by FARC. Also, on 11 April, Irma Janeth Restrepo Cifuentes, aged 10, was gravely wounded in the stomach and arms and legs when she stepped on a mine that had been placed by ELN in the municipality of Zaragoza (Antioquia).

VI. SITUATIONS OF SPECIAL CONCERN

A. Developments in the armed conflict and peace negotiations

184. Throughout 2001 the armed conflict increasingly affected the daily life of the country's inhabitants. Two noteworthy features have characterized the past 12 months. The first of these was the increase in the rate at which the conflict deteriorated as shown by the number and frequency of atrocities committed by those directly participating in hostilities. The second aspect involved the difficulties and contradictions concerning actions aimed at commencing, nourishing and maintaining dialogue and negotiations to facilitate a ceasefire and lead to peace.

185. There were cases in which the civilian population, faced with the violence perpetrated by the combatants, confronted the armed actors in a peaceful manner without weapons so that these groups would cease attacking their homes. Such was the case of the residents of Caldonó and Bolivar (department of Cauca) in mid-November. Most of the time, however, the civilians have had to submit to the de facto power of the different illegal armed groups and suffer abuses at their hands.

186. In the course of 2001, both the guerrillas and the paramilitaries engaged in combat against alleged "infiltrators" or "collaborators" belonging to the other side, without regard to humanitarian considerations.

187. The peace process with FARC has been seriously affected since late 2000 by a succession of crises, two of which occurred within a few days of the expiration of the demilitarized zone. The crises resulted from the grave acts carried out by the guerrillas (such as the kidnapping of three German aid workers, the use of force in order to deny entry to presidential candidate Horacio Serpa into the demilitarized zone and the murder of former Minister of Culture Consuelo Araújo Noguera), and also from accusations of non-fulfilment of the agreed conditions. Dialogue between the parties was kept afloat owing to the fact that, each time that a crisis intensified, meetings were held at which mechanisms for facilitation and follow-up were agreed upon, such as the International Commission of 10 countries (Canada, Cuba, France, Italy, Mexico, Norway, Spain, Sweden, Switzerland and Venezuela) and the Commission of Notables.

188. The incidents that affected the peace process prevented substantial progress. In other areas, two factors have had adverse effects on the process, the first being inconsistencies and contradictions on the part of FARC, and the second the State's inability to dismantle the paramilitaries or at least to diminish the intensity of their attacks on the civilian population. The guerrillas have frequently cited this problem in order to draw out the talks. It is also discouraging that neither the Government nor FARC have shown a willingness to negotiate a general accord on human rights and international humanitarian law in accordance with the recommendations of the international community.

189. In June, 55 policemen in FARC captivity and 14 imprisoned guerrillas who were in poor health were released after the parties reached an agreement. The guerrilla group then unilaterally released 242 soldiers and policemen in La Macarena (Meta) as well as another 60 in Antioquia. Some 100 soldiers and police, many of whom have been deprived of their liberty for more than three years, remain in FARC captivity.

190. At the same time, the peace process between the Government and ELN experienced a series of ups and downs concerning the so-called "meeting zone" that was agreed upon by the parties in order to host a national convention, to be held in three municipalities in the departments of Antioquia and Bolívar. The international community, and particularly the five countries that are sponsoring the process with ELN (Cuba, France, Norway, Spain and Switzerland), supported the creation of the zone. However, it was not possible to arrive at a final agreement owing to strong opposition on the part of certain social sectors led by the Asociación Civil para la Paz en Colombia (Civil Association for Peace in Colombia, Asocipaz) and because of the surge in paramilitary activity in the region. The peace talks with ELN were formally dissolved on 10 August, although at the end of the year the parties agreed to resume discussion.

191. It is worth noting that the peace talks with the guerrillas did not produce any improvement with regard to the situation of human rights or international humanitarian law, nor did they result in greater protection for the civilian population. Other agreements were subsequently concluded by the parties, among which it is worth mentioning the San Francisco de la Sombra Accord. The implementation of this accord could lead to an improvement in the humanitarian situation (see para. 57 above).

1. Behaviour of the guerrilla groups

192. The guerrilla groups continued to engage in very grave acts (see chap. V.H above). This Office on various occasions alerted the Government to the presence of, or threats made by, these groups in different areas of the country. As in previous years, in 2001 many of the FARC and ELN attacks targeted police stations, using home-made explosive devices with little accuracy. Time and again, these methods of warfare caused the destruction of property that could not be considered a military objective, as well as civilian casualties. With specific reference to ELN, this group perpetrated frequent car-bombings on inter-municipal roads.

193. Both ELN and FARC focused their actions on the country's infrastructure by blowing up electricity pylons, oil pipelines and bridges. Those most affected by these attacks were the civilian population, in that the provision of electricity was interrupted, thus hurting industry and commerce, and there was also serious environmental damage.

194. The practice of hostage-taking on the part of the guerrilla groups went to such extremes that in several cases, involving incidents in Neiva (Huila) and Calarcá (Quindío), the kidnappers apprehended their victims through the use of commandos armed with rifles and explosives, who forcibly entered homes in urban areas.

195. The guerrillas' "armed work stoppages" also had a negative impact on the inhabitants. These actions led to restrictions on access to basic goods and services, a decline in nutrition, food shortages and difficulties in access to health care. For example, from 28 September to 15 October, FARC imposed an "armed work stoppage" in the department of Arauca, causing a shortage of produce and basic supplies, which had serious consequences for the population most at risk.

196. The attacks on the civilian population, on civilian property and on State infrastructure have had a serious negative impact on the community's enjoyment of economic, social and cultural rights and on the State's capacity to safeguard rights and services for its people.

2. Demilitarized zone

197. In the demilitarized zone, in addition to the absence of the State judicial and disciplinary authorities, 2001 saw FARC throw up obstacles to the work of the Office of the Ombudsman. The guerrillas also disrupted police activity in the San Vicente del Caguán region. This confirmed the guerrillas' intention to control all of the administrative and legal functions that would normally be performed by the State in a demilitarized area and indicated that they would not respect the fundamental rights and liberties of the inhabitants.

198. Throughout the year this Office and the national authorities received reports and complaints that FARC were using the zone to lodge their kidnap victims (including young children, such as Andrés Felipe Navas) and to negotiate ransoms; to plan, prepare and direct belligerent actions; to acquire and store new armaments; to recruit minors; to threaten the owners of businesses and farms in order to take over these assets; and to detain and execute those who were against the guerrillas or who were suspected of harbouring sympathy for the paramilitaries.

199. FARC continued to exercise very strict, authoritarian and repressive control over the lives of the zone's inhabitants. In the municipality of Vistahermosa, the guerrillas went to the extreme of making more than 20,000 people take an AIDS test at the local hospital. The Office received information that at least four people who were found to be HIV-positive were forced to leave the area.

200. In this same municipality, FARC detained and, in some cases, executed people accused of violating the guerrilla group's monopoly over the buying and selling of coca leaf. Several such persons were incarcerated in the municipal jail and kept under surveillance by the Civic Police in the demilitarized zone.

201. At the same time, the paramilitary groups stepped up their pressure on the areas surrounding the demilitarized zone. This included setting up roadblocks, demanding financial contributions and executing people who were coming from the five municipalities of the demilitarized zone. Examples of this latter phenomenon are the killing of people coming from municipalities in Granada (Meta) and the murders of the mayors of Cartagena del Chairá (Caquetá) and Lejanías (Meta). The inhabitants greatly fear the possibility of a paramilitary onslaught in the zone.

B. Paramilitary activity

202. During 2001, the Office continued to observe that paramilitary activity was strengthening and spreading throughout much of the country's territory. The Office noted the limited effectiveness of the measures taken against paramilitary groups to curb their activities, contain their advance and respond to their aggressions, as well as the fickle commitment on the part of the State in this struggle. The members of the paramilitary groups continued to be the main parties responsible for the increase in human rights violations. They also greatly contributed to the deterioration in the conflict through their systematic use of violence and terror against the civilian population in zones under their control and in areas affected by their raids. Toleration, support and complicity on the part of public servants, as well as non-fulfilment of their duty to safeguard rights, with respect to several acts by these groups, mean that the State continues to bear responsibility.

203. Changes have come about during the period covered in this report which reflect intense dynamics of transition within the paramilitary movement. These include the changes in their discourse and modifications to their internal structure that took place in May. AUC announced that Carlos Castaño had become one of the organization's political directors, while a joint chiefs of staff took over military affairs.

204. At the same time, external factors, such as the fact that on 10 September AUC was included in the list of foreign terrorist organizations of the United States Department of State, as well as the international climate after 11 September, also explain some of the strategic changes, above all with regard to the group's public discourse.

205. With their expansion and consolidation, the AUC groups seemed to be responding to interests of a broader nature than merely territorial control or the domination of the routes leading to the coast. In some cases (the communities of Nariño and Chocó, for example) in addition to recovering territories that had been under guerrilla control, AUC exerted clear influence on economic activities and forced the inhabitants to modify their work. In other cases, such as La Gabarra (Norte de Santander), AUC controlled a significant proportion of coca production and sales.

206. Undoubtedly, evidence of the spread of paramilitary activity may be seen in the appearance of so-called self-defence groups in regions where they had not previously had a significant presence. Examples of this were the massacre of 20 people in El Naya (Cauca and Valle) from 9 to 15 April, as well as AUC actions this year in Nariño, a department where they were able to establish a new theatre of operation towards the Pacific coast without encountering more than token resistance. This year AUC has taken more than 40 lives in municipalities such as Tumaco and Samaniego.

207. Another case that illustrates paramilitary expansion is the emergence of the AUC Bloque Tolima, thought responsible for some of the deaths in municipalities in the southern part of the department, as in Natagaima. At the same time, the Frente Omar Isaza belonging to the Autodefensas del Magdalena Medio (Central Magdalena Self-Defence Groups) concentrated its efforts in the northern part of the department where, on 15 September, it killed 13 people. Finally, in the month of August, some 1,000 AUC members entered the department of Arauca after mobilizing troops in the northern part of the department of Casanare. The warnings that were sounded did not succeed in averting several homicides, among them the killing of a congressman.

208. At the same time, the consolidation of paramilitary activity in departments such as Chocó, Antioquia, Valle and Putumayo was evident. In Putumayo, AUC groups increased their presence in the urban centres of the municipalities of Villa Garzón and Mocoa as well as in others in which there was a substantial army presence. This fact and numerous testimonies received by the Office suggest the existence of a direct relationship between the security forces and AUC. In the department of Guaviare, AUC groups consolidated their presence in the urban centre of the capital and in the rural area around San José del Guaviare. At the same time they succeeded in establishing a substantial contingent in the southern part of the department of Meta. The Southern Casanare Peasant Self-Defence Groups strengthened their manpower in this department by means of massive recruiting campaigns, in part enforced, and by increasing extortion against all segments of society.

209. In addition, AUC groups increased their operations in Bogotá, as exemplified by the brazen executions of Congressmen Luis Alfredo Colmenares Chía and Jairo Rojas. Another case was that of Carlos Nicolás González, a helicopter pilot employed by Carlos Castaño, who was gunned down inside his residence complex while under the protection of the Attorney-General's Office.

210. The growth in paramilitary activity is evident and the manner in which paramilitaries carried out their violent operations can only be understood as a demonstration of the consolidation of their power. One illustration of this was that on 10 October there were two massacres in the departments of Magdalena and Valle del Cauca that left more than 35 dead. In the latter alone, AUC killed 24 inhabitants in rural districts in the municipality of Buga (Valle), within 12 kilometres of the county seat where the Palacé Battalion is headquartered.

211. The Office continued to receive troubling reports of ties between members of the security forces and elements of the paramilitary groups. The existence of pending criminal and disciplinary investigations of members of the security forces shows how widespread these relationships are.[33] However, the investigations have not led to any determination of responsibility or the application of the relevant sentences and punishments to ensure that these acts do not benefit from impunity.[34]

212. Another source of concern to the Office is the fact that certain court cases, having to do with illegal executions in which members of the security forces are involved, come up against various obstacles. One example was the investigations into the massacres in Chengue and Ovejas (Sucre). It is worth mentioning that two investigators from the Human Rights Unit of the Attorney-General's Office who were investigating the Chengue massacre and the paramilitaries' finances were the victims of an enforced disappearance in Sincelejo (Sucre) this year. Prosecutor Yolanda Paternina, who was in charge of the investigation, was killed violently in the same place on 29 August. There are clear indications of direct involvement by public servants, both military and civilian, in these massacres. The same is true of the investigations into the paramilitary massacres in La Gabarra (Norte de Santander) as well as those concerning military authorities' involvement in these acts (see sect. D below). The impunity that shelters the perpetrators of these massacres and the government officials allegedly involved, adds one more element of State responsibility.

213. Some of the cases cited above lead the Office to believe that the growth in paramilitary activity has been aided by the State's inaction or slow reaction in preventing the formation of illegal armed groups, and in keeping new territories from falling under the de facto control of these organizations. In the majority of the cases summarized here, the Office alerted the national authorities to the consolidation or spread of the paramilitary groups without there being an adequate response to such warnings.

214. In this regard, the Office provided the State with information on roadblocks, bases and other movements and threats involving paramilitaries, with the results summarized above. Such was the case in municipalities such as Campo Dos and on the Tibú-La Gabarra road (Norte de Santander) where the existence of seven AUC checkpoints was verified, one of them only 2 kilometres from the La Gabarra police station.

215. Faced with the blatant nature of these raids and operations, the State has not demonstrated that it is resolved to confront the challenge of these organizations by means of effective, timely and sustained actions on the part of the security forces and other government entities.

216. Over the reporting period, however, there have been some indications of a change in attitude in combating the paramilitary groups. Military operations, arrests and raids demonstrated that, in those cases where the political resolve and the determination to take action exist, worthwhile results can be achieved, above all when there is pressure by the central Government.

217. However, any evaluation of the effectiveness of the mechanisms depends on whether preventive or protective military actions aimed at arresting members of the paramilitary groups, as opposed to the political or judicial actions targeting ties to public officials, are being examined. The same examples that may serve as a positive example in one area are representative of negative responses in others.

218. Thus, the Office has taken note of actions such as Operation Dignity and the 13-14 October raids by the army 3rd Brigade and the Technical Investigation Unit of the Attorney-General's Office in Calima Darién (Valle). However, these operations do not seem to have had any effect on the paramilitary groups in the zone.

219. The Office has also taken note of the operation carried out on 24 May in Montería (Córdoba) in which the security forces provided support for judicial searches and arrests of people accused of financing paramilitary activity. The ability of the diverse State institutions to work together in this way is essential to the success of actions and mechanisms to prosecute and combat paramilitary activity, and their effectiveness is intimately related to decisive commitment on the part of the central Government. This Office hopes that actions like these will be carried out in other areas of the country with the same cooperation, coordination and effectiveness. However, it is worth noting that unless there is follow-up, progress in the investigations and comprehensive action, isolated efforts will not succeed in weakening the operational capability of these groups.

220. On the subject of prevention and protection, the slow response on the part of the security forces in the case of the El Naya massacre (Cauca and Valle del Cauca) and in response to raids such as the one in Peque (Antioquia) demonstrate the lack of timely responses that would make it possible to avert massacres and the irreparable loss of human life.

221. The reaction to the operational capabilities of the paramilitary groups should not be limited to a military response directed against the perpetrators of acts already committed, as in the case of Operation Dignity. Rather, an effort must be made to strengthen preventive actions which, in addition to arrests, make it possible to lower significantly the number of people killed on a daily basis by the armed groups and, specifically, by the paramilitaries. The Office has observed a marked contrast between the Government's strong words of condemnation of these groups and the actions and practices by its various authorities and institutions.

222. In addition, a serious commitment on the part of the Government with regard to human rights does not seem to be reflected in the fact that the security forces continue to promote soldiers and policemen whose conduct is being investigated for human rights violations and paramilitary activities. Such promotions send a contradictory message to civil society with regard to the manner in which the State fulfils its duties in the struggle against impunity. These duties arise not only from the country's laws but also from international treaties. In the

same sense, it is worth pointing out, on the one hand, the concern demonstrated by the High Commissioner in relation to the National Security and Defence Act, implementation of which could have serious consequences for countering the ties between the security forces and the paramilitary groups, and, on the other, the Government's underestimation or failure to understand the magnitude of these ties or even their existence.

C. Internal displacement

223. The degeneration of the conflict, combined with the lack of a comprehensive prevention strategy, has led to an increase in internal displacement.

224. The Social Solidarity Network[35] (hereinafter referred to as the Network) has made efforts to improve the coordination of the national system of care for the displaced population and key sectors have been regulated.

225. At the same time, local authority response has been inadequate. Access to assistance programmes continues to be problematic. Allocated funding and actual spending have remained insufficient. Prevention continues to be ineffective and ethnic minorities are still disproportionately affected.[36]

226. In terms of the extent and development of the problem, by applying the system for estimates of forced displacement by contrasting sources (SEFC),[37] the Network recorded a 64 per cent increase in the number of displaced persons compared to the same period in 2000 (85,012 during the first half of the year) and a 118 per cent increase in the number of displacement events (1,019). An additional 318 municipalities were affected. For the same period, CODHES recorded 191,928 newly displaced persons.[38] The Network estimates that 90 per cent of these people were displaced as the result of mass displacements, while CODHES puts that figure at around 22 per cent. This may suggest that although the Network improved its coverage, it still had difficulties in adequately detecting cases of individual displacement.

227. With regard to alleged responsibility for displacement, the Network attributed 53.6 per cent of cases to the paramilitaries during the first half of 2001, which represents a slight decrease in percentage terms over 2000 (when the figure was 58 per cent) but a considerable increase in absolute terms.[39] Paramilitary activity occurred chiefly in the northern part of the country during consolidation operations, and in the Cauca during an expansion drive.[40] The guerrillas were blamed in 19 per cent of the cases, a significant increase compared to 2000 (11 per cent).[41] Displacements caused by the guerrillas were more common in the southern part of the country and owed much to the fear of forced recruitment by FARC. The Network also reported an increase in displacements directly attributed to the security forces (1.47 per cent in the first half of 2001, as compared with 0.02 per cent for the same period in 2000). This increase was due primarily to military operations in the department of Vichada.

228. The Afro-Colombian and indigenous communities were among the groups most affected, representing 23.5 per cent of those displaced during the first half of 2001, according to the

Network.[42] This percentage is disproportionate in relation to their percentage of the overall population and inconsistent with the special protection required under the Guiding Principles on Internal Displacement and the Constitution itself. Both groups live in regions that the State has traditionally neglected, which provides fertile ground for groups operating on the fringes of the law. The natural resources and economic potential of some of these areas may also explain the interest on the part of groups that would benefit from such neglect.[43]

229. Another source of concern is displaced persons' and returnees' vulnerability to stigmatization and the limited effectiveness of protection mechanisms. A typical case is that of Eder Enciso Sandoval, leader of the community of La Reliquia (Villavicencio, Meta), who was killed by a person or persons as yet unidentified before the eyes of 600 children and other community members. The Office has also received very serious reports of cruel, inhuman or degrading treatment by the police of completely defenceless displaced persons occupying a lot in the Rincón de la Paz area near Bucaramanga. Other reports have been received of a number of evictions involving the excessive use of force by the same city's police department.

230. The system's weakest component is displacement prevention, as is shown by the way the problem has grown and spread. There is no discernible State policy or comprehensive strategy for translating the regulations into concrete programmes. At times, the State seems to act more as an observer than as a genuine protector of the civilian population. There is little commitment to prioritizing the matter. This is evident from the limited resource allocation and spending; the lack of clear instructions to the security forces to prioritize protection of the population; the general failure to punish those responsible for omissions; the widespread impunity of those responsible for displacements;[44] and the fact that the local committees are not playing their part in preventing displacement.[45] For example, no genuine early warning system (SAT) with national coverage has yet been created.[46] In addition, other mechanisms provided for in the legislation have not been implemented, including the observatory, alternative conflict-resolution mechanisms - such as justices of the peace - and effective mechanisms to protect properties left behind by displaced persons, such as a campaign to grant collective title.

231. Efforts have been made by humanitarian commissions - in particular by the Ombudsman's Office, but also by other agencies, often with the participation of the Office, UNHCR and civil society. Although these efforts have been more ad hoc than systematic and more reactive than preventive, some of them may have had the effect of discouraging the armed factions and providing encouragement to local authorities and security forces, although this is difficult to quantify. However, the impact was limited by the lack of State actors in any position to establish a minimum of contact, for humanitarian purposes, with those responsible for the displacements, and thus able to make a realistic evaluation of every aspect of the situation; by the limited human resources for the magnitude of the problem;[47] and by the looseness of the follow-up and non-fulfilment of specific undertakings. At times, national and departmental authorities have shown an alarming lack of interest in taking supportive or preventive action. An example of this occurred in connection with the massacre of 15 passengers on a bus in the La Libertad (Boyacá) area on 1 December 2001, allegedly by paramilitaries. The Office visited the communities affected on two occasions, in response to a call from the Ombudsman's Office, which had issued invitations to several institutions. Although both the Office and the Ombudsman had drawn attention to the seriousness of the situation, no national or departmental authority visited these communities.

232. The warning component sometimes worked without triggering an effective response from the security forces. While it is important to protect the infrastructure, in some cases no priority has been given to protection of the civilian population. Additionally, owing to stigmatization of some sectors of the population and of civil society, such as the peace communities in the Atrato region of Chocó, warnings are not considered reliable and are ignored.

233. The establishment of a branch of the Ombudsman's Office in areas where indigenous and Afro-Colombian populations are at greater risk of displacement, such as Tierra Alta (Córdoba) and various parts of Chocó, might act as a deterrent to the armed factions and a support for communities and local authorities, but has not yet been implemented for lack of human resources, despite the fact that the communities have requested the presence of civil authorities and the provision of State social services in these zones. They have also requested the presence of international observers, which has been effective in other contexts in the Americas, but these have been provided in only a very small number of cases.

234. The system for registering the displaced population is not yet being used as a mechanism to facilitate access to State programmes, and indeed many continue to perceive it as an obstacle to access.[48] It has, however, made progress in standardizing the process of taking and evaluating statements, and in the analysis of the displaced population.[49] Meanwhile, Constitutional Court ruling T327/01 of 2001[50] has had a positive effect: 38 per cent of the cases assessed in Bogotá in 2000 were registered, whereas during the first eight months of 2001 the registration rate was 74 per cent. There continue to be problems: for example, the lack of information to beneficiaries, despite the efforts of the Network;[51] the lack of guarantees of confidentiality; waiting periods of up to two months in order to make a statement; and the fact that statements made by women non-heads of household are frequently not given due consideration.

235. Another obstacle preventing access to State assistance by registration arises from restrictive interpretations of the rules, as exemplified by the introduction of deadlines,[52] a concept inconsistent with the Guiding Principles on Internal Displacement, which make no mention of such time limits. Also, statements referring to crop spraying are not usually registered but no evaluation is carried out to determine whether any other elements of such cases might permit classification as a displaced person in accordance with the Guiding Principles.

236. Thanks to coordination between the Network and ICRC, emergency humanitarian assistance has improved, particularly in cases of mass displacement. There is still much room for improvement, for example by further shortening waiting times for assistance in individual cases, or by allowing greater flexibility in interpreting the provisions for three-month extensions of assistance.[53] Studies carried out by the World Food Programme (WFP) and Médecins Sans Frontières (Doctors Without Borders, MSF) indicate serious levels of malnutrition, particularly among families with female heads of household. It is inconceivable that all displaced families - mainly agricultural labourers arriving in urban areas - should be able to support themselves after three months.

237. The National Council on Comprehensive Care for the Displaced Population began work as a result of an injunction contained in a court ruling on an application for protection, No. SU-1150; however, it did not adopt a new national plan, as provided by Act No. 387, articles 9 and 10. For its part, the Economic and Social Policy Council (CONPES) made

provision in May 2001 for a special budget allocation to certain agencies for displaced persons; the actual budget allocation and effective spending will need to be evaluated at a later stage. In general, however, the amounts allocated appear inadequate, especially with respect to land.[54] The procedures and requirements for gaining access to the programmes continue to be tortuous. It appears that the conviction persists among State agencies that these programmes are an expression of particular munificence on the part of the State rather than minimum reparation for rights violated as a result of a deficiency in a State protection mechanism. The decrees regulating Act No. 387, adopted during the past year, represent an advance whose concrete implementation will need to be evaluated.

238. The efforts of the Joint Technical Unit (Network-UNHCR) at the local level to strengthen the Committees on Care for the Displaced Population have been significant. However, owing to a lack of political will and of awareness of mechanisms, as well as other difficulties, many mayors have not taken the necessary steps to obtain funding at the national level.

239. In addition, in certain regions where housing shortages mean that displaced persons live in temporary squats, as is the case in La Reliquia (Villavicencio), the local authorities do not respect basic rights such as education for displaced children, despite their international and constitutional obligations. In other cases, discriminatory conditions are introduced, such as a five-year residency requirement, with the express intention of excluding displaced persons from social programmes so that the municipality will not become too attractive, as has happened in Fusagasugá (Cundinamarca).

240. It is difficult to find durable solutions in a context of conflict and stigmatization. The Network registered 14,865 returnees during the first half of 2001, which represented a decrease from the 47,338 recorded in 2000. The Network also reported one family resettled for every 10 returning, owing to the greater complexity of the process. In this respect, if there is no State policy to actively seek to restore security in the areas of return, the only alternative is basically resettlement, with the risk that this would unintentionally favour the economic or strategic interests of those responsible for displacement. During the first half of 2001, the Network approved 110 production projects for the resettlement of 11,354 families, with a budget of nearly 20 billion pesos, joint financing and international contributions accounting for nearly half the amount. This represents nearly 1.7 million pesos per family, which generally is not enough to achieve sustainable socio-economic stability.

241. With regard to returns, the Office has noted that in several cases it is questionable whether the return was in fact voluntary. One formally "voluntary" return in Alto Baudó, Chocó, for example, occurred with no minimum guarantees of security and dignity.[55] It was mainly desperation at the subhuman living conditions in Quibdó, and the lack of prospects, that impelled many to return, rather than a sober, informed assessment of the security conditions. There is thus a serious risk that the tragedy of displacement will be repeated as a result of the fragility of the process in the key area of effective security.

242. In any case, considering the fact that the majority of displaced persons, especially those in the cities who are of rural origin, are unwilling or unable to return, there are still serious deficiencies in social policy to deal with the problem, including job-creation initiatives.

D. Administration of justice and impunity

243. The administration of justice continues to suffer from serious weaknesses and deficiencies that help bolster the high rates of impunity for major human rights violations and breaches of international humanitarian law.

244. The Office is concerned about the changes that have occurred since the appointment of the new Attorney-General - affecting the orientation of his Office and involving the dismissal of certain officials, among other things - which have raised serious fears about the prospects for strengthening the institution and its commitment to combating impunity. Several events have called into question the independence and autonomy of prosecutors in their investigations into human rights violations, particularly those involving paramilitary groups and public officials.

245. One example of this is the investigation of General Rito Alejo del Río for organizing and supporting military groups: a warrant for pre-trial detention was issued after he had made a statement. Both the Vice-President of the Republic and the Minister of Defence publicly criticized the issuance of the arrest warrant by the prosecutor in charge of the case; this constitutes serious interference in the administration of justice. The new Attorney-General expressed disagreement with the preventive injunction, a position that led to the resignation of both the Deputy Attorney-General and the Director of the Human Rights Unit of the Attorney-General's Office.

246. This highlights, on the one hand, how narrow prosecutors' margins of autonomy and independence are and, on the other hand, how the lack of a legal career path affects the exercise of independence and may jeopardize security of tenure.[56] This situation prompted the Inter-American Commission on Human Rights to comment, "The Commission cannot but express its serious concern for the above related events which, by inhibiting and restraining the task of the Unit, restrict the independence and efficacy of the administration of justice and the battle against impunity in Colombia".[57]

247. In this context, the restructuring of the Human Rights Unit[58] gives further cause for concern. The new Administration has reaffirmed its undertaking to rearrange investigation priorities so as to include breaches of international humanitarian law by guerrilla groups. Yet cases against the various armed groups have always fallen within the Unit's jurisdiction. Given that the Ministry of Defence has acknowledged paramilitarism to be the main factor in human rights violations,[59] there was every reason for the Unit to have prioritized and emphasized such investigations in the past.

248. To this list of concerns should be added changes in institutional policies resulting from the dismissal of officials at the Institute of Forensic Medicine and certain local units and prosecutors' offices by the Attorney-General. These institutions could be weakened by such a loss of accumulated experience and of highly qualified staff, and because of the deterioration in the credibility crisis.

249. With all these changes, questions arise regarding cases such as the Chengue massacre (Ovejas, Sucre, 17 January 2001) and investigations into paramilitary massacres in the department of Norte de Santander. In the first case, the prosecutor in charge of the investigations, Yolanda Paternina, was executed on 29 August 2001 as she was building a case implicating various members of the security forces and other public officials. Several months after her death, the Office has not been able to establish that the Attorney-General's Office has systematically followed up the inquiries and evidence at its disposal that would make it possible to elucidate her death and obtain concrete results in the investigation of the massacre. With regard to the second case, two prosecutors and an investigator from the Technical Investigation Unit of the Prosecutor's Office in Cúcuta were also executed while investigating various paramilitary massacres, notably those committed between May and August 1999 in La Gabarra, municipality of Tibú. This in turn is related to the death of the former Ombudsman of Norte de Santander, Iván Villamizar, who had also actively denounced the massacres.

250. Officials investigating cases implicating paramilitaries or State officials are particularly vulnerable, and here lies the greatest danger. The response of the Attorney-General's Office to this problem indicates a refusal at the highest level to prioritize these investigations or to support the officials involved in them.

251. Such situations reveal how very exposed and in what great danger judicial officials and Technical Unit investigators continue to be as they carry out their duties. The Office has received information regarding extortion and harassment of judicial officials by members of ELN, FARC, EPL and paramilitary groups in various regions of the country, subjecting them to pressure and danger to a degree often underestimated by their institutions.

252. The coverage of the Attorney-General's Office protection programme for victims, witnesses and others involved in criminal proceedings, and for Attorney-General's Office staff, is still inadequate to protect officials from threats, and this could lead them to exercise excessive caution or self-censorship in their investigations, or even to lose all objectivity and underestimate the seriousness of the crime or the danger. The programme has been evaluated as part of a cooperation project between this Office and the Attorney-General's Office, in response to the observations and recommendations formulated by the High Commissioner in her previous reports (see paras. 39-45 above).

253. The Office has thus been able to ascertain that the main threats are paramilitarism, guerrillas, organized crime and certain State agents involved in paramilitarism, corruption and drug trafficking. The programme's difficulties have to do with, among other things, its lack of a coordinating mechanism that can establish common protective guidelines, the absence of clear and uniform parameters for assessing risk and evaluating the admissibility of an application, inadequate training of protection programme personnel, delays in carrying out studies and inadequate human and financial resources.

254. There are also still no specific protection programmes for judicial officials who do not work for the Attorney-General's Office. The absence of any policy in this respect has led

such officials to publicize their lack of protection in the media. Between 1 January and 14 December 2001, the Solidarity Fund for Judiciary Officials registered 81 attacks on the judiciary, including at least 15 executions, 58 threats, one assault, two disappearances and five kidnappings.

255. Despite changes in the rules of military criminal justice, in some cases military courts have launched or continued with investigations into human rights violations. These cases include the death of the mayor of Rovira (Tolima), Julio Hernado Rodríguez, and the death of a woman and four children in El Carmen de Atrato. In the first instance, the Attorney-General's Office considered that the case fell within the jurisdiction of the military criminal justice system since the events occurred while the accused were on active service. In the second instance, the Attorney-General's Office did not take up the case. The investigation into the Mapiripán massacre remained within military jurisdiction until a Constitutional Court ruling ordered its transfer to the ordinary courts. In two other cases mentioned in the previous report - the killing of six children by members of the army in Pueblo Rico, and the massacre in Santo Domingo, Arauca, attributed to members of the air force - no one has yet been brought to justice. In the last case, on 18 October 2001 the Supreme Council of the Judiciary resolved a further jurisdiction challenge, finding in favour of the military criminal justice system.

256. There are problems with the operation of the Procurator-General's Office, stemming from the lack of organization of information on cases, which leads to unfocused investigations and delays in sentencing. This in turn means that deadlines expire in some disciplinary investigations and impunity results. This shows the need for clear guidelines and parameters for action, in order to ensure adequate coordination among the different departments. Another area where problems have been detected is that of prevention, which is the subject of a study by the Office to develop relevant policy guidelines (see chap. II.A above). The Office has noted that the Procurator-General's Office is seriously concerned to identify the obstacles and difficulties preventing it from carrying out its duties, and is making a valiant effort to overcome them.

257. The public defence service offered by the Ombudsman's Office suffers from a number of deficiencies and weaknesses that affect its ability to guarantee an adequate technical defence. These include a lack of timeliness in providing the service and a lack of active participation and monitoring to ensure application of defendants' judicial guarantees; there is no monitoring of respect for the right to personal liberty and no automatic involvement at all stages of the proceedings. The National Department for Public Advocacy has adopted a series of measures to try to overcome these difficulties (see chap. II.A above).

258. State policy on the battle against impunity requires clear commitments. The National Security and Defence Act, mentioned above, raises serious issues in this regard, in particular as it allows the transfer of judicial police responsibilities and duties to the military forces, which will do nothing to ensure the independence of the judiciary and may have an adverse effect on due process (see chap. VII.B below).

259. The fact that cases have been reported of members of the security forces threatening judicial officials[60] and that the Office has received information on other cases in which the security forces failed to provide the necessary support when requested, thus obstructing the

course of justice, shows that there is a need to strengthen inter-institutional coordination and cooperation. Police cooperation in the enforcement of orders issued by the competent authorities in judicial operations, procedures and inquiries is vital to the successful outcome of judicial proceedings. Equally vital is the cooperation of the military forces in providing due protection to judicial officials and their activities in high-risk areas.

260. Most of the situations described in this section have a direct impact on effective access to justice, supporting what has already been stated in previous reports on the subject.[61] The information given in this section reveals a disquieting reluctance on the part of the State to implement the right to independent, impartial and rights-based justice.

E. Prison situation

261. At the fifty-seventh session of the Commission on Human Rights, held in 2001, the Chairperson expressed his concern about the prison situation and requested the Office to follow this situation with a view to providing advice and cooperation to the Colombian authorities. In accordance with that request, and given the importance of the matter, the Office established an international mission to identify, with the support of the Division for Criminal and Penitentiary Policy of the Ombudsman's Office, the main violations of human rights in prisons, in order to prevent and correct them (see para. 41 above).

262. Through visits, interviews, documents and analysis of the complaints received by the Office in 2001, the Mission confirmed the existence of gross and systematic violations of human rights in prisons and police stations. The situation of persons deprived of their liberty has actually worsened in the nearly four years since Constitutional Court judgement No. T153/98, which stated: "The state of affairs in Colombia in prisons ... is unconstitutional"; it ordered, among other measures, "full implementation of the plan for prison building and renovation within four years" and instructed "the President of the Republic, as the supreme administrative authority, and the Minister of Justice and Law ... to take all necessary steps to enforce law and order in prison establishments and respect for the fundamental rights of inmates".

263. The authorities do not comply with Constitutional Court judgement No. T847/00:[62] people continue to be held in police stations and DAS, SIJIN, DIJIN and CTI detention facilities for up to two years, with no access to basic entitlements such as medical care, adequate food, education, work, separation by category and defence counsel, among other things. Overcrowding reaches 848 per cent in some of these places.[63] According to reports provided by the District Ombudsman's Office, police stations and sub-stations in Bogotá have a maximum capacity of only 600 detainees. Yet as many as 2,000 people have in fact been held simultaneously in these facilities. Cases reported include that of the 3rd police station, which has a capacity of 25 people, but where 212 detainees have been counted on some days. Arrested minors share cells with adults.[64] Cruel, inhuman and degrading treatment continues to occur on a regular basis in such places (see chap. V, sect. D.2, above).

264. Official INPEC data on the prison population do not include the number of people held in police stations or municipal jails, and do not take into account the real numbers of accused or convicted persons, since many detainees are considered convicted offenders despite the fact that final sentence has not been passed. Information on both the size of the prison population and prisoners' legal situation is thus clearly inaccurate.

265. Prison authorities point to the country's internal armed conflict as the cause of prison violence. However, the Mission found that only 8 per cent of all detainees have any connection with the conflict, and they are held in less than half the nation's prisons and penitentiaries, albeit the most densely populated ones. Conversely, Bucaramanga women's prison and Medellín's Buen Pastor prison are notable examples of governability, yet in both cases a significant number of inmates are involved with the armed conflict. There is no doubt that the widespread problem of ungovernability and violence affecting most of the country's prisons and penitentiaries is the result of poor administration on the part of both the Ministry of Justice and INPEC, and of the shortage of financial, logistical and human resources. Lack of supervision and corruption make it easier to bring in weapons of various types, including firearms and grenades, and the way certain groups of inmates wield power further fuels prison violence. Thus, according to data provided by INPEC, 86 violent deaths and hundreds of serious injuries were reported between January and July 2001.[65]

266. The protective and preventive function of a prison sentence, which is to rehabilitate the individual,[66] is a long way from being fulfilled in the Colombian prison system. This is demonstrated by the high number of violent deaths, rising numbers of prisoners, the high rates of recidivism, drug addiction and the proliferation of gangs inside prisons. A high degree of police involvement in prison administration is characteristic of the system. The directors of INPEC, and those of most of the country's jails, have been or are members of the police forces and generally have no specific training in prison administration.[67] Additional factors are the limited number of wardens to guard and supervise the prisoners, the lack of appropriate staff selection procedures, the absence of any coherent, ongoing or comprehensive training, the limited number of social workers, and the high degree of instability and insecurity in their working conditions.

267. Inmates have very little opportunity to obtain administrative benefits such as 72-hour parole or sentence reductions for working or studying. There are many reasons for this: (a) the prison authorities' illegal tightening of conditions;[68] (b) the conflict of jurisdiction between sentencing judges and the prison authorities that arose when the new Code of Penal Procedure[69] came into effect; (c) poor administration in the jails, including the lack of a computerized filing system; and (d) the material impossibility of reducing a sentence for working or studying in prisons or police stations, because no provision, or in some cases inadequate provision, is made for this in the system.

268. The Government is attempting to address the various problems of the prison system by building high-security prisons and promoting what it calls a "new prison culture", one example of which is Valledupar National Prison. This new culture attempts to eliminate corruption and the risk of escape, and to abolish inmates' privileges, thereby ensuring effective control and governance in prisons. Its basic and overriding principle is the rule of law. However, the principles established in Act No. 65[70] - i.e., discipline, work, study, spiritual formation, culture, sport and recreation, in a spirit of humanity and solidarity - are not fully observed. The

possibility of sentence reductions for work or study is limited because there are not enough workshops and those there are are underused, and because educational arrangements are inadequate: there are only around 100 classroom places for 1,410 inmates. The living conditions, the transfer of prisoners - always handcuffed and under guard - the disciplinary model, and the use of physical force (rubber-covered metal rods) all violate the principle of respect for human dignity. The Office has received numerous complaints during the year of failure to comply with INPEC rules governing the profile of those to be held in this facility,[71] restrictions being placed on the exercise of the right to a defence,[72] and mistreatment of detainees and their relatives. In this respect, the Mission notes that the new prison culture "is a public relations exercise that conceals the true human rights crisis in the penitentiary and prison system".

269. The Mission found that sentencing judges do not make visits to prisons or police stations and thereby fail to fulfill their legal obligation to verify the places and conditions in which sentences are served. They also seem to have a rather casual attitude towards helping detainees obtain benefits and releases. The caseload, the lack of resources and support staff, and the disorder created by the sole secretariat are some of the reasons given to justify this failure to act.

270. As indicated in the Office's previous report,[73] the Colombian State's response to the diverse social and political problems the country faces has been punitive; the problems have not been addressed within their respective contexts. This response has only helped to aggravate the prison situation and thus increase the number of human rights violations. There is a clear need to define a rights-based criminal policy, one designed by democratic consensus, that addresses the structural causes of the problems. Changes are also urgently needed in criminal law and in the behaviour of supervisory bodies in order to prevent abusive use of arrest by the police and of pre-trial detention by prosecutors. Supervisory mechanisms should also be established to ensure the prompt and effective administration of justice.

271. Despite its limited resources, the Ombudsman's Office, as the institution responsible for the protection and defence of the human rights of persons deprived of their liberty, has been carrying out an intensive programme of visits and prisoner care. However, it is obvious that, in many cases, the responsible authorities fail to pay attention to, or implement, its recommendations.

272. Supervisory bodies such as the Controller-General's Office and the Procurator-General's Office have failed to fulfil their duties efficiently, which means that the irregularities detected in the operations of the Ministry of Justice and INPEC have not been investigated or punished.

F. Human rights defenders

273. The year saw a further increase in the vulnerability of human rights defenders, including community, social and trade union leaders and representatives, and defenders of the rights of indigenous peoples and displaced persons, among others. It was this situation that provoked the visit by the Special Representative of the Secretary-General on the situation of human rights defenders (see chap. III above). Paramilitary groups seemed to be responsible for most of the

cases reported, but others were attributable to the guerrillas. In some cases public officials themselves helped make the situation even more dangerous, either by speaking out against human rights defenders or their organizations, or through direct action, or because of their links with paramilitary groups.

274. Violations committed against indigenous and trade union leaders and defenders are described in sections G and H below.

275. Human rights defenders are at particular risk in central Magdalena, and especially in the city of Barrancabermeja. Of particular concern are the situations of the Organización Femenina Popular (Women's Popular Organization, OFP) and CREDHOS. The Office found that members of these groups are obliged to work in an atmosphere of insecurity, without safeguards for their rights, and at serious risk for their lives and physical integrity, owing notably to threats from paramilitary groups. AUC launched a campaign of violence and terror against the civilian population in the region, identifying the people and groups involved in defending human rights and humanitarian law as potential or actual guerrilla collaborators and declaring them "military targets".

276. As a result of this situation, the offices of human rights organizations have been closed or their activities curtailed, as happened in February to the Asociación de Familiares de Detenidos - Desaparecidos (Association of Relatives of Detainees and Missing Persons, ASFADDES).

277. Another example of this vulnerability was the death on 12 February in Cúcuta (Norte de Santander) of the former Cúcuta Regional Ombudsman, Iván Villamizar, which was attributed to paramilitaries and occurred despite the fact that he had been provided with protection. Mr. Villamizar had repeatedly denounced the security forces' inadequate response to paramilitary massacres in the Catatumbo region in 1999. Another victim was the nun and human rights defender Yolanda Cerón, whose death on 19 September in the city of Tumaco (Nariño) was also attributed to paramilitaries.

278. Threats against other human rights defenders, including the president and two members of the Corporación Colectivo de Abogados José Alvear Restrepo, were attributed to members of the army; other threats were made against the president of the Asociación para la Investigación y Acción Social Nomadesc; four members of the Corporación Sembrar; the Director of the Advisory Office for Human Rights and Displacement (CODHES); and members of ANDAS and Corporación Reiniciar. In the majority of cases, the perpetrators have yet to be brought to justice and insecurity persists.

279. Another worrying trend can be observed in the attacks against leaders of the displaced population. Examples are the homicide of the president of the Fundación Solidaridad y Justicia de las Víctimas y Desplazados por la Violencia, Darío Suárez Meneses, attributed to members of FARC, on 11 May in the city of Neiva (Huila), and the case of Eder Enciso Sandoval, one of the leaders of the displaced population in the township of La Reliquia, Villavicencio (Meta) (see sect. C above).

280. The involvement of public officials has shown that the State has direct responsibility in cases where human rights defenders are put at risk. The serious discovery that human rights defenders' and NGOs' telephones had been illegally tapped in Medellín (Antioquia), had a major impact, especially on the city's human rights organizations and institutions.

281. As a result of the investigation into the enforced disappearance of ASFADDES members Ángel Quintero and Claudia Monsalve in December 2000 in Medellín, the Attorney-General's Office and the Procurator-General's Office discovered that the Gaula unit of the Medellín police had illegally tapped over 2,000 telephone lines between 1998 and 2000 by forging prosecutors' signatures on warrants. In the course of its disciplinary investigation, the Procurator-General's Office indicted 12 members of the Medellín Gaula unit, among them two colonels. However, no significant progress has been made in the investigation into the enforced disappearance of the human rights defenders, and it is to be hoped that the illegal phone-tap trials will not only lead to the punishment of all those responsible, but also compel the State to adopt the necessary measures to prevent a recurrence of such actions.

282. A serious concern is the frequent violation of Presidential Order No. 07, which places an obligation on public officials to respect the work of human rights defenders and institutions. In this regard, it is worth mentioning statements made on 27 July at Fusagasugá (Cundinamarca) by Colonel Enrique Cotes Prado, operations commander-in-chief of the Sumapaz Special Brigade. During a meeting of local authorities with a joint commission comprising representatives of the Government, supervisory bodies, NGOs and the Office, the Colonel questioned the concern of commission members for the human rights situation in the region, claiming that some State officials are "servile lackeys" of the guerrillas.

283. Other statements were made by Córdoba police chief Colonel Henry Caicedo García, who said in a statement to the media on the disappearance of Embera indigenous leader Kimi Domicó Pernia (see sect. H below), that he may have been kidnapped because of his links with drug trafficking, thus increasing fears for his life. Also, two days before the summary execution of Embera leader Alirio Pedro Domicó Domicó, the media were informed by Córdoba's Secretary of the Administration that he had been involved in the massacre of 24 peasants in late May in Tierralta (Córdoba), attributed to FARC.

284. Government decisions sometimes undermine the Government's own message of commitment to the defence and protection of human rights defenders and their work. One example of this was the appointment as Chief of the Medellín anti-terrorist squad of Colonel Santoyo, who was involved in the disciplinary proceedings in connection with the illegal phone-tapping in Medellín.

285. There has been no action on State policy on human rights defenders that might demonstrate the Government's commitment to protect their rights and freedoms. For example, the names of defenders continue to be arbitrarily registered in intelligence files, and the Office continues to believe there is a need for more forums for discussion between the Government and this sector of civil society.

286. This year, the Office has been concerned to note that the administrative problems and bureaucratic difficulties affecting the efficiency of the Ministry of the Interior protection programme (see chap. VII.C below) persist. The difficulties include delays in transferring and making available funds allocated to the programme, which impacts on the timely implementation of measures. This particularly affects implementation of "hard" security schemes involving the recruitment of bodyguards, the acquisition of armoured vehicles, handguns and rifles, and the hardening of headquarters locations.

287. The Office is particularly disturbed at cases such as that of Valmore Locarno, President of the Drummond company workers' union, who was killed for lack of effective protection, having been assessed by DAS as "medium to low" risk. This incident highlights the inadequacy of such studies.

288. The Office was, however, pleased to see a notable reduction in the number of cases awaiting assessment by the Risk Control and Evaluation Committee.[74] This has made it possible to examine cases that described situations of exceptional urgency, without the need to alter the schedule, which has alleviated the polarization among some members of the committee. Also, the increase in requests for protection highlighted the worsening of the risk situation for defenders and the absence of effective preventive action by the authorities to contain risk factors.

G. Trade unionists

289. The number of trade unionists killed, threatened and attacked remained high in 2001. Considering that the exercise of trade union freedoms is a fundamental human right and that the protection of union leaders and defenders is essential for the effective rule of law, this dramatic situation raises serious doubts about Colombian democracy.

290. In his report in June 2001, the Special Representative of the Director-General of the International Labour Organization (ILO) for cooperation with Colombia stresses that there has been "an increase in the number of murdered trade union officials and members ... There has also been a deplorable increase in the number of criminal attacks on teaching staff, principally in universities".[75]

291. The Office has also observed how the threats and vulnerability that accompany union activity indiscriminately affect union leaders and members alike. Complaints have been received from unions that had to disband because of threats from paramilitary groups or whose members were forcibly displaced, as in the case of the regional branch of the National Association of Hospital Workers of Colombia (ANTHOC) in Barranquilla.

292. Although the Office has not been able to give a definitive figure for the number of trade unionists murdered this year, ILO, the Government and the trade unions all agree that the situation of workers remains critical. The Office has received reports from the Trade Union Confederation (CUT) of more than 160 violent deaths of union leaders and members, as well as 30 attacks, 79 disappearances and numerous displacements and threats. It should be mentioned that members of paramilitary groups have been blamed for most of these violent deaths. The departments most affected by anti-union violence continue to be Valle del Cauca, Antioquia, César and Santander. The trade unions hit hardest by the violence are those representing public

employees, teachers and health workers, especially the Colombian Teachers Federation (FECODE), the Cali Municipal Workers Union (SINTRAEMCALI) and ANTHOC. One cause for extreme concern was the case of Aury Sara Marrugo, president of the Cartagena branch of the Oil Workers Trade Union (USO), who, together with his bodyguard, was taken prisoner by AUC paramilitaries and later summarily executed. In this case there are indications of police involvement, giving further cause for concern in the wake of the attempt on 15 December 2000 to kill Wilson Borja, president of the National Federation of State Employees (FENALTRASE), for which current and former members of the security forces are also under investigation.

293. Attention should likewise be drawn to the extrajudicial execution of Gustavo Soler Mora, president of the union representing workers at the Drummond Company, the mining and energy sector union known as SINTRAMIENERGETICA, in the department of César on 8 October, six months after the double murder of Valmore Locarno and Víctor Orcasita, then president and vice-president respectively of the same union, the degree of risk to whom had been assessed under the Ministry of the Interior's witness protection programme (see chap. VII, sect. C, below).

294. Attention is also drawn to the murder of the secretary-general of the Workers Union of the Municipality of Dagua (Valle del Cauca), Segundo Florentino Chávez, who was shot dead by two paramilitary gunmen in August 2001, when a protection plan had already been approved but could not be implemented for lack of resources.

295. Another of the Office's concerns is the impunity still enjoyed by those responsible for the murders of trade unionists. The Attorney-General's Office reported that proceedings were under way in 606 cases concerning violations of the human rights of workers and trade unionists; of those, 421 are at the stage of preliminary investigations, 34 are at the stage of examination proceedings and 17 have gone to trial, resulting in 6 convictions so far.

296. In addition to what has already been said concerning the Ministry of the Interior's witness protection programme, it can be stated that the State's policy to deal with this situation has been ineffective, since the situation not only persists but is getting worse. Furthermore, given the vulnerability of trade unionists to the paramilitaries, the limited success of the State's efforts to combat the paramilitaries has done little to reduce the risk to trade unionists.

H. Ethnic groups

297. During the period covered by this report, the situation of ethnic groups has continued to grow progressively and systematically worse. There has been a manifest increase in violations of the human rights of indigenous and Afro-Colombian peoples, especially in terms of extrajudicial or illegal executions, enforced disappearances, death threats and displacement. Other groups particularly affected by different forms of discrimination and disregard of their specific rights are native islanders[76] and gypsies.

298. Several indigenous leaders were murdered in 2001. Attacks on these leaders particularly weaken the internal organization and undermine the leadership of their communities and

jeopardize their very survival as communities. Furthermore, unwise decisions by regional authorities that question or cast doubt on the integrity of indigenous individuals or their communities do little to protect the latter or safeguard their fundamental rights (see sect. F below).

299. The Embera Katio communities have been particularly affected. A typical example is the disappearance of Kimy Pernia Domico, leader of the indigenous council of Río Verde (Alto Sinú) on 2 June, for which paramilitary groups have been held responsible. The same groups were also held responsible for the extrajudicial execution of the Embera governor Alirio Pedro Domico Domico of the indigenous council of Río Esmeralda (Alto Sinú) on 23 June and the deaths of a leader from the Gengadó reservation (Alto Baudó, Choco) on 26 June and a leader from the Puria community (Choco) on 19 October. FARC elements have also attacked these communities, as in the case of the traditional healer Rafael Lana, who was murdered on 6 February in the community of Porremia. These communities complain that they are caught in the crossfire between the paramilitaries and the guerrillas and that they have also suffered at the hands of some members of the security forces.

300. The Páez indigenous people have also been the victims of killings and threats perpetrated by, in particular, FARC. For example, Cristóbal Secué, a Páez leader from Cauca, was murdered on 25 June. Various acts of violence by that guerrilla group led the community to organize a peaceful resistance movement (see sect. A above).

301. The Office continued to receive complaints from the indigenous communities living in the Sierra Nevada de Santa Marta and the Perijá mountains in the jurisdiction of the departments of César, Magdalena and La Guajira. The large number of "selective" killings (mainly attributed to the paramilitaries) in the course of the year in the region inhabited by the Kankuamo indigenous people is a cause for concern. Some irregularities committed by the military were also reported, such as the excessive use of force or ill-treatment of indigenous officials and leaders. The Office received information to the effect that on 9 May, in downtown San Juan de César (Guajira), four soldiers from the army detained a Wiwa leader at gunpoint and forced him to the ground. The communities living in the Sierra Nevada and the Perijá mountains have also reported instances of pillaging of indigenous homes (see paras. 146-151 and 182-183 above).

302. Moreover, Afro-Colombian communities were also the target of threats and harassment, as well as being the victims of enforced displacement. An example of the vulnerability of their leaders is the threats made by paramilitary groups against the president of the Association of Displaced Afro-Colombians.

303. The problem of displacement particularly affected the Afro-Colombian and indigenous communities. Attention should be drawn to the massive displacement of 4,000 Afro-Colombians from the municipality of Pie de Pato (Chocó) on 4 June following threats by paramilitary groups. It is striking that these incidents occurred less than a month after these communities had been granted collective title to their ancestral lands by the Government in accordance with Act No. 70 of 1993. The Afro-Colombians of Alto Naya (Valle del Cauca and Cauca) were also particularly badly affected by displacement. Displacement is also a problem for the Embera Katio community (Córdoba), whose situation is already critical, as described above. In many of these

cases the influence of vested economic interests in the region cannot be discounted. For example, the "peace community" of Nueva Esperanza, in the municipality of Carmen del Darién, was burned to the ground by a group of paramilitaries on 2 June, shortly after the community had been granted collective title to its ancestral land.

304. The Office has observed a marked worsening of the armed conflict this year in territories inhabited by indigenous and Afro-Colombian communities, as well as a shortage of, and lack of support from, the State's civil institutions. In Juradó (Chocó), for example, the only State employees present are the teachers and one doctor. It should also be pointed out that, in most of the investigations into the violations referred to above, no real progress has been made towards ensuring that those responsible are punished.

305. Despite constitutional recognition of their specific rights, ethnic minorities continue to suffer the consequences of racial discrimination and intolerance. This led the Committee on the Elimination of Racial Discrimination to express concern at the under-representation of these communities in State institutions, as well as at the racial segregation and conditions of extreme poverty and social exclusion that they have to endure.[77] Some of them, as was pointed out last year, are in danger of losing their cultural identity and, in some cases, the ethnic groups themselves are in danger of extinction.

306. Moreover, in order to preserve the cultural identity of the native islander population of San Andrés and to protect the island's natural resources, the 1991 Constitution provided for the establishment of a special regime for immigration, population density, regulation of land use and the transfer of land ownership. Despite this, native islanders, who are currently said to make up only about 37 per cent of the population, continue to be faced with situations that threaten their ethnic diversity and harm the environment.

307. The situation of gypsies is also a cause for concern, since they are not only the victims of social stigmatization and discrimination, but their right to their cultural identity is affected by many authorities' ignorance of the fact that they constitute an ethnic group. The members of the gypsy communities suffer from a high incidence of poverty and exclusion from access to health care, education, housing and jobs.

I. Situation of other vulnerable groups

308. Various groups have been identified in 2001 as being especially vulnerable, as their fundamental rights, beginning with the right to life, are frequently and gravely compromised. These groups include journalists and media officers, academics and students, members of political organizations, former rebels, persons with HIV/AIDS and members of sexual minorities. This situation reveals the lack of protection for the right to equality and freedom from discrimination, as well as the fragility of the safeguards for the exercise of political rights and the right to freedom of speech and opinion and academic freedom.

309. A number of acts of violence were perpetrated within the academic community in 2001, exposing the polarization of Colombian society and the spread of the armed conflict outside the battlefield. These acts included the killing or threatened killing of teaching staff and students. The academic centres most affected were the State universities such as the National University

and the Universities of Córdoba, Antioquia and Atlántico. The victimization of these Colombian citizens also demonstrated the inadequacy and inefficacy of the measures taken by the State to prevent and punish such crimes, exercise the control needed to allow universities to go about their normal business, and guarantee academic freedom.

310. Journalists and media officers continued their work in very trying conditions, particularly in the parts of the country most affected by the armed conflict. The figures for killings and threats targeting these professionals are far from encouraging. They indicate an increase of 50 per cent in the number of homicides and almost 100 per cent in the number of threats, as compared with last year. The number of journalists who met a violent death rose from 6 to 9, while the number of persons receiving threats rose from 27 to 51.[78] Responsibility for these threats was attributed to AUC paramilitaries in 21 cases, government officials in 6, FARC guerrillas in 5, members of the security forces in 4, and ELN guerrillas in 3. It was not possible to determine the origin of the threats in the other 12 cases. Although the programme for the protection of journalists and social communicators established by Decree No. 1592 has been running since 2000, journalists are clearly still working in a climate of insecurity. It should be pointed out that the Ministry of the Interior is busy assessing the programme's effectiveness (see chap. VII, sect. C, below).

311. Furthermore, the homicides, assaults and threats affecting leaders of all political persuasions, including the already decimated Unión Patriótica and the Communist Party, should be considered as serious attacks on political rights. The non-governmental organization "Reiniciar" reports that between 28 February and 13 November at least 26 UP members were murdered (12 of them in massacres), 2 were victims of enforced disappearances, 45 were threatened, 5 went into exile and more than 250 were displaced with their families. This situation raises serious concerns regarding the forthcoming presidential and parliamentary elections in 2002.

312. The Office also received testimony from reintegrated former guerrilla fighters who reported that the organizations of which they had been members had threatened or planned to kill them. Of note in this regard are the cases of Neftalí Romero and Jaime E. Bula Espinosa, former rebels from the Corriente Renovación Socialista (Socialist Renewal Movement), who were murdered in March and April 2001 respectively.

313. Cases of discrimination against persons with HIV/AIDS also give cause for concern. These persons are often forced to turn to the courts for legal protection or amparo in order to uphold their fundamental rights to health care and social security, which are arbitrarily denied to them by the agencies responsible for providing these services.

314. Homosexuals and members of other sexual minorities are not only the victims of violent attacks on their right to life, but they also often suffer from discrimination in the areas of employment, health care, social security and education (see paras. 74-93 above). At the end of 2001, the Government opposed the passage of a bill which would have guaranteed equality in civil matters and social benefits for same-sex couples.

315. The situation of the above-mentioned groups as described here is clear evidence of the high level of intolerance in Colombian society, in which many people claim the right to penalize dissent and difference. The Colombian State has so far demonstrated little commitment to fulfilling its duties in relation to the effective protection of diversity and democratic pluralism.

VII. FOLLOW-UP TO INTERNATIONAL RECOMMENDATIONS

316. The Office of the United Nations High Commissioner for Human Rights has a mandate to follow up the recommendations addressed to Colombia by international human rights bodies and mechanisms. This chapter analyses the Colombian State's follow-up to the recommendations made by the United Nations High Commissioner for Human Rights in her previous reports. These recommendations in turn include some of those made by the human rights treaty-monitoring bodies, the Commission on Human Rights and its special rapporteurs and working groups, and special representatives of the Secretary-General. The recommendations take into account those made by United Nations agencies such as ILO and by organs of the Inter-American system such as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.[79]

A. Recommendations on the adoption of human rights and international humanitarian law measures, programmes and policies

317. The High Commissioner urged the Government to adopt a comprehensive human rights policy and to press ahead with the development and implementation of a national plan of action in this area. Regrettably, at the time of writing, for the reasons given in chapter II above, no substantial progress has been made in drawing up this plan and so no action has been taken to ensure that government policy is comprehensive and coherent.

318. This raises a number of questions about the full compatibility of the Executive's proposal for a new anti-terrorist strategy, which is in addition to the National Security and Defence Act already in force, with international norms and recommendations and about its negative effect on efforts to strengthen the rule of law.

319. Anti-paramilitary policies and measures continued to be ineffective and there was a marked contrast between the Government's words and actions concerning prevention, punishment and protection in this area. One of the mechanisms proposed by the Government was the coordination centre established by Decree No. 324 of 2000 to combat the self-defence groups and other illegal armed groups. However, the overview presented here leads to the conclusion that the centre has not been a great success in combating these groups. On the occasions that the Office has approached this coordinating body with complaints and warnings, it has not met with a quick response and tangible results. Furthermore, the impunity still enjoyed by the paramilitaries and the public officials with ties to them reveals the limitations of the State's response.

320. One of the mechanisms promoted by the State to combat impunity was the Special Committee to Promote the Investigation of Human Rights Violations and Breaches of International Humanitarian Law. In previous reports the High Commissioner has expressed her

concern over the limited results achieved by this mechanism, mainly as a result of the lack of a regular schedule and continuity in its meetings, actions and measures, which has reduced its effectiveness. During the current year, no progress has been made in this area, apart from the decision to refocus the committee's work on ensuring greater effectiveness in promoting investigations and combating impunity. The consequences of this decision will be evaluated next year.

321. Specific policies on the rights of women, children, ethnic minorities and other special groups have continued to experience difficulties related to limited follow-up and the limited continuity and implementation of the regulations, programmes and mechanisms. The same applies to the work undertaken by the Inter-Institutional Commission on Workers' Human Rights. The High Commissioner has already indicated that the efforts by the Ministry of Labour have not been backed up by simultaneous action by other government bodies. The High Commissioner acknowledges the continued importance of the Inter-Institutional Commission and appreciates the Ministry of Labour's positive contribution to it, but the Office has observed that the commitments undertaken by the Commission have not been effectively translated into general or specific measures.

322. The High Commissioner must emphasize that the State has not implemented the recommendation to mainstream gender issues in measures and actions or to establish indicators to measure the impact of policies designed to remedy inequalities. In the area of children's rights, children captured while serving in armed groups are still waiting for access to comprehensive care programmes.

323. Human rights education is still absent from several programmes at the various educational levels and a national plan of action for human rights education is yet to be developed and implemented.

324. The response to the High Commissioner's recommendation that full attention should be paid to the problem of enforced displacement as a matter of priority has been inadequate. Progress in some areas, such as registration of the displaced population and greater national coverage, has been accompanied by only limited action to protect and assist victims and ineffective preventive policies.

B. Recommendations on legislation

325. The new Code of Penal Procedure (Act No. 600 of 2000) came into effect in July 2001, but its provisions did not introduce the amendments that would have allowed all persons deprived of their liberty to seek a judicial review of their detention, regardless of the reason for that detention. The Constitutional Court has ruled that the provisions of the new Code of Penal Procedure that regulate the use of the habeas corpus mechanism are unenforceable. In the Court's opinion, article 382 (2) of Act No. 600 infringes the Constitution in stipulating that applications for release submitted by those who have been legally deprived of their liberty "must be made within the respective proceedings". Since 1998, the High Commissioner's reports have pointed out that this procedural restriction is incompatible with the provisions of the International Covenants.

326. Congress currently has before it two statutory bills to regulate the use of habeas corpus. As it is the will of the Court that its ruling on unenforceability should come into effect on 31 December 2002, if one of these bills has not been passed by that date, there will be no legal provision enabling people to apply for a writ of habeas corpus and they will have to invoke directly the right set forth in article 30 of the Constitution.

327. Nor were the necessary reforms incorporated into the legal regulations for so-called "governmental pre-trial detention" to ensure that police arrests without a judicial order comply with the requirements of international instruments. A draft "Social Coexistence Code", to replace the National Police Code that has been in force since 1970, has been on the table since 1996 but has still not been submitted to Congress for approval.

328. The draft Penitentiary and Prison Code is still waiting to be discussed and adopted by the legislature.

329. Article 147 of the new Penal Code (Act No. 599 of 2000), which has been in force since 24 July, makes acts of racial discrimination an offence. However, this punishable offence, classed with crimes against the person and property protected under international humanitarian law, can only be committed "in the course and conduct of the armed conflict". Consequently, discriminatory behaviour at any time by persons not directly involved in the hostilities remains unpunished in Colombian legislation.

330. The High Commissioner recommended the adoption of the legal reforms needed to adapt domestic legislation to ILO standards. The report of the Special Representative of the ILO Director-General[80] notes that no progress has been made in bringing Colombian legislation into line with international labour standards.

331. The Office of the Procurator-General continued to lobby, with government support, for the draft Single Disciplinary Code to be adopted by the legislature. The draft Code would allow the public prosecutor to apply sanctions commensurate with the seriousness of the behaviour, so that the disciplinary process would be better adapted to the rights-based principles of penal law, and its articles would include regulations consistent with the provisions of international criminal law that are now incorporated into Colombian legislation. The draft Code has already passed through Congress and at the end of 2001 was awaiting presidential approval.

332. Colombian legislation on minors still contains provisions that are incompatible with the Convention on the Rights of the Child and the recommendations of the Committee on the Rights of the Child. These incompatibilities are especially apparent in areas such as the treatment of child offenders and child labour.

333. However, in the year covered by this report the Colombian State has taken legislative measures to prevent and counter exploitation, pornography, sexual tourism and other forms of sexual abuse of minors. Act No. 679 of 3 August 2001, which expands article 44 of the Constitution, provides for the adoption of measures to prevent minors from having access to pornographic information in any shape or form and to curb the use of global information networks for the purpose of child sexual exploitation. The Act makes conduct related to the prostitution of non-adults an offence under the Penal Code.

334. Act No. 707 of 8 November 2001, adopting the Inter-American Convention on Forced Disappearance of Persons, concluded its passage through Congress in late 2001 and was awaiting the automatic constitutionality review.

335. Legislative Act No. 02 of 27 December 2001, which will allow the Rome Statute of the International Criminal Court to be ratified, was adopted by Congress. The High Commissioner has noted the interest shown by legislators in Colombia's becoming a party to this instrument. The Government has expressed its commitment to having the Statute ratified.

336. In her previous report, the High Commissioner recommended that the Colombian State should recognize the competence of the Committee against Torture and the Committee on the Elimination of Racial Discrimination, so that they could consider communications on violations of the treaties monitored by them. The Government informed the Office that the recommendation would be transmitted to the Intersectoral Commission for consideration. At the time of writing, the Office had not received news of any decision in that respect.

337. Finally, the High Commissioner has been particularly concerned at the entry into force of the National Security and Defence Act (Act No. 684) of 2001, which has been referred to elsewhere in this report. The High Commissioner sent her comments on this matter to the President of the Republic. The Office duly warned Congress and the Government that the Act contravened several international human rights provisions in that its articles grant excessive powers to the security forces (such as judicial police powers); it undermines the right of every private individual deprived of liberty to be brought immediately before a judge; it establishes a de facto permanent state of emergency through the mechanism of the so-called "theatres of operations"; it infringes on the independence of the Office of the Attorney-General; it subordinates civilian authorities to the military; and it creates new legal mechanisms that allow the perpetrators of serious human rights violations and war crimes to go unpunished.

C. Recommendations on the functioning of justice

338. With regard to the recommendations to strengthen the administration of justice, the High Commissioner points out that the State has not provided sufficient resources, particularly to the Attorney-General and the oversight bodies. The Attorney-General's protection programme does not adequately cover the judicial officials or witnesses and victims who receive threats. It should be mentioned that the National Department for Public Advocacy has taken action to make its work more effective.

339. It can also be observed that the new National and Security Defence Act, as well as the Attorney-General's position on several matters relating to the independence of the judiciary, do not contribute to the strengthening of justice (see chap. VI, sect. D, and sect. A above).

340. The High Commissioner's request for guarantees that all cases of human rights violations and breaches of international humanitarian law should be tried in the ordinary courts has not been fully met. As has already been mentioned, some of these cases have been heard in the military courts, despite the new regulations on the subject.

341. The recommendations on criminal and prison policy have not produced significant progress towards the goal of full rights-based guarantees in criminal law. Nor have the measures to fight corruption produced positive results, as witnessed by the presence of weapons, organized crime and drugs in the prisons.

D. Recommendations on the protection of vulnerable groups

342. The High Commissioner has urged the Colombian State to take effective measures to safeguard the life and security of human rights defenders and other vulnerable groups and to reinforce and improve the effectiveness of the protection programmes run by the Ministry of the Interior. The Ministry has sought an outside evaluation of these programmes, setting up a commission made up of representatives of the State institutions involved and the beneficiaries (human rights defenders, trade unionists, journalists and members of the Unión Patriótica), as well as representatives of ILO and the Office. The evaluation is planned for next year. In addition, resources have been increased, although they are still insufficient, and it is quite clear that the authorities in some parts of the country have taken no action or have been reluctant to act, particularly when there have been warnings of imminent attacks on rural communities.

343. It should be stressed that the Ministry of the Interior has sponsored some regional meetings in an attempt to alleviate tensions between local authorities and welfare or human rights organizations. However, the Government should be much more active in its support for these initiatives and should ensure better inter-institutional coordination at both the central and local levels.

344. The High Commissioner also recommended that the Procurator-General should review the military intelligence files containing information on members of non-governmental organizations. In this context, she expressed concern that an exhaustive investigation had not been carried out, that there were no mechanisms to ensure that information not relevant to national security was corrected or removed, and that the files were not periodically reviewed so as to avoid further illegitimate practices. No tangible progress has been made in this respect.

VIII. CONCLUSIONS

345. The United Nations High Commissioner for Human Rights wishes to begin these conclusions by highlighting the positive aspects and achievements which she observed during the year covered by this report. In particular, she takes note of the extension of the Office's mandate in Colombia and wishes to thank the national and regional authorities for their help in opening the OHCHR sub-offices in Cali and Medellín.

346. The High Commissioner considers the invitations to visit Colombia issued by the Government to the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on violence against women to have been very helpful. She also thanks the Government for its availability and support during both visits.

347. The High Commissioner welcomes the progress achieved in constitutional and legislative reform during 2001. Worthy of mention in this connection are the adoption of a new single Disciplinary Code and the adoption by Congress of legislation to ratify the Rome Statute of the International Criminal Court and the Inter-American Convention on Forced Disappearance of Persons. She also notes the Government's efforts to improve coordination in providing care to displaced people and progress achieved in registering them.

348. She would also like to emphasize the role played by the Ombudsman's Office in promoting and protecting human rights and the fact that in so doing it has maintained continuous cooperation with OHCHR. The Ombudsman's Office has followed closely the main problems affecting the Colombian people, thus demonstrating a genuine commitment to its mandate.

349. The High Commissioner also wishes to highlight the cooperation that the Office has received from the Office of the Procurator-General, which has shown its interest in benefiting from the Office's mandate to strengthen its role in monitoring public servants, defending human rights and preventing human rights violations. The public prosecution service has made vigorous efforts, using technical cooperation provided by OHCHR, to strengthen and enhance the role of the municipal ombudsmen.

350. The High Commissioner also wishes to stress the willingness of the Rodrigo Lara Bonilla Judicial Training School to support her Office in providing training in human rights and international humanitarian law for staff working in the area of the administration of justice.

351. She also notes that the Attorney-General's Office stood ready to work together with her Office in monitoring situations within the latter's mandate which are of concern to it and in developing technical cooperation programmes.

352. The High Commissioner welcomes the Constitutional Court decisions interpreting national human rights legislation in such a way as to guarantee its conformity with international instruments. Worthy of mention are the decision finding the legislation regulating habeas corpus to be unconstitutional and the decision relating to the system of registration and care for the displaced population.

353. The High Commissioner wishes to express her appreciation for the support provided throughout this period by Colombian civil society, especially non-governmental organizations.

354. The High Commissioner values the efforts made by the Colombian Government and society to promote peace talks aimed at diminishing the impact of the armed conflict on the civilian population and achieving a peaceful settlement. She regrets the fact that those efforts have not led to an improvement in the people's humanitarian and human rights situation.

355. The High Commissioner also emphasizes the importance of the Government's establishment of a forum for dialogue and discussion with the Office concerning the recommendations and proposals that the Office made in the midyear report submitted to the Colombian Executive. She nevertheless regrets that this periodic exchange was delayed,

resulting in a failure to take full advantage of the Office's mandate for most of the year. She also regrets the declarations and statements made by high-ranking Colombian government and State authorities against the Office, its officials and representatives, displaying ignorance of and disrespect for the mandate of the Office.

356. Unfortunately, the Office continued to observe a marked deterioration in the human rights situation throughout the country in 2001. The human rights violations that occurred may be described as grave, massive and systematic. The main rights affected continued to be the rights to life, integrity, liberty, security of person and due process. Members of paramilitary groups were the principal violators of such rights, and their acts implied State responsibility, by acts of commission or omission, i.e. failure by the State to perform its duty to safeguard rights.

357. Violations of international humanitarian law continued to occur on a recurrent and massive basis, principally on the part of the different paramilitary and guerrilla groups. Many of those violations were part of a widespread attack on the civilian population. The steady deterioration in the armed conflict frequently led the combatants to disregard the humanitarian principles of restraint and distinction and increasingly target defenceless civilians. The High Commissioner notes that although only a small percentage of violations were directly attributed to members of the security forces, the State bears responsibility for actions committed by other people who participate directly in the hostilities, because of its failure in the areas of protection, prevention and the enforcement of humanitarian norms.

358. As indicated in last year's report, the Office noted that the main problem in the area of human rights and international humanitarian law continued to be the lack or inadequacy, depending on the case, of continuity, follow-up and implementation of programmes, standards and mechanisms, such as the different intersectoral committees and commissions. There was a notable lack of concrete measures and actions that could lead to positive results and changes. This may be explained by the State's weak resolve to pursue such means of action and the low priority they are assigned in government decisions and policies.

359. Another disturbing aspect in the High Commissioner's view is the increasing weakness of the State and its institutions, which seriously endangers the future of the rule of law in Colombia. On the one hand, while the armed conflict has deteriorated and spread, the State and its institutions have been increasingly absent from many regions of the country, which has aggravated the problems of good governance and legitimacy. On the other hand, it has become apparent that the military is being strengthened to the detriment of civilian institutions and authorities. Examples are the adoption of the National Security and Defence Act, some proposals for an anti-terrorist strategy emphasizing repression at the expense of prevention and some questionable changes in the Attorney-General's Office which have resulted in weakening the administration of justice as a pillar of democracy.

360. The High Commissioner is also concerned at the fact that the Colombian authorities plan to increase national security through programmes that would, inter alia, remove youths over 14 from the juvenile justice system, regulate information in the media on terrorism and permanently

authorize preventive arrests without a warrant, currently allowed only in a state of emergency. On several occasions the Office in Colombia has reminded the Executive and Congress that any strategy meant to improve the citizenry's peace and institutional stability should be compatible with Colombia's international commitments.

361. As mentioned throughout this report, the High Commissioner believes that judicial independence is at a critical juncture, with a loss of legitimacy and trustworthiness and a lack of a comprehensive strategy for combating impunity. The Executive has not helped to ensure the impartiality of those who bear constitutional responsibility for investigating and prosecuting offenders, including public officials, seriously compromising its duty to protect and safeguard fundamental rights. Developments in this problem area in the upcoming months will make it possible to determine the effects of this situation on the State's commitment to combat impunity.

362. The High Commissioner remains concerned at the impunity that continues to characterize the main cases of violation of human rights and international humanitarian law. This is reflected in the absence of punishment for public officials involved in such cases, the ineffectiveness of such mechanisms as the Special Committee to Promote the Investigation of Human Rights Violations and Breaches of International Humanitarian Law and the way in which the military criminal justice system has conducted its investigations of such cases. Despite changes in legislation, military courts continued to hear cases that are within the jurisdiction of the ordinary courts.

363. With regard to the administration of justice, difficulties persisted in terms of access to justice, the safety of officials, victims and witnesses in criminal trials, judicial delays, the full exercise and enjoyment of an adequate defence and the effective intervention of oversight bodies. In this connection the High Commissioner acknowledges the important endeavours made by the Ombudsman's Office and the Procurator-General's Office to overcome the difficulties affecting their institutions in these areas. The Attorney-General's Office has taken up the recommendations set out in the analysis of the protection programme for victims, witnesses and others involved in criminal proceedings and officials of the Attorney-General's Office, but its implementation is pending and is partly dependent on the availability of resources.

364. The conditions in which persons deprived of liberty are held in Colombian jails manifestly contravene international rules for the treatment of prisoners, national provisions in this area and rulings on petitions for protection. Throughout most of the country, inmates receive substandard medical care, lack adequate food and sanitary facilities, and have no opportunities for study and work to facilitate their transition back into society and help them reduce their sentences. In addition, prison life continues to be affected by such factors as violence, overcrowding, ill-treatment, arms- and drug-trafficking, insecurity, the conducting of organized criminal activities from within correctional facilities and administrative corruption and inefficiency. The High Commissioner is concerned by the absence of effective State control of penal establishments, the lack of a comprehensive prison policy that safeguards inmates' rights, the abuse of pre-trial detention, the chronic nature of cruel, inhuman or degrading treatment in prisons and police stations and limits on the exercise of habeas corpus.

365. Paramilitary activity continued to spread and become more entrenched. The Government's commitment to counteracting paramilitary groups has continued to be weak and inconsistent. There was a noticeable contrast between the Government's tough discourse against the paramilitary groups and both its actions and failure to assess the extent of public servants' ties to these groups. The gap may be understood in the context of civil authority bowing to military authority, mentioned earlier. In this connection, the High Commissioner has taken note of the arrests made by the authorities and the strong words used by Government to describe its position, but she remains concerned about the lack of timely and effective preventive action and action to protect the civilian population. Finally, the impunity that protects those responsible for paramilitary acts, owing to acts of commission or omission, and the limited effectiveness of the State's mechanisms for combating these groups, in large measure account for their increased strength.

366. Enforced displacement continued to worsen in complexity and magnitude, and to spread into new zones of the country, disproportionately affecting people of indigenous and Afro-Colombian ethnicity. Primary responsibility for displacements continued to lie with paramilitary groups. There has, however, been a serious increase in actions attributed to the guerrilla groups. Despite progress in legislation and case-law, the State appears to lack genuine political will to make prevention a priority and to establish an effective and comprehensive protection strategy for the population at risk. There is widespread impunity for those responsible for displacement. Hence the displaced population continues to experience a grave situation of vulnerability, insecurity and stigmatization. Concerning the registration of the displaced population, despite advances in case law in this area, it must be said that the restrictive interpretation of the principle of time limits leaves a high proportion of the displaced unprotected and with no prospect of a solution. The High Commissioner is also concerned about the gap between the three months of emergency humanitarian aid provided and the longer time period that the displaced need to become self-sufficient, as in the case of women heads of household in urban areas.

367. The situation of human rights defenders continued to be critical and they worked in a delicate climate. Because of the intimidation and insecurity that prevail in the country, the free exercise of their activities is undermined and they are frequently victims of threats, harassment and attempts against their life and personal integrity. The High Commissioner was concerned to observe that the paramilitary groups declared members of human rights NGOs "military targets". State mechanisms to diminish risks, prevent violations and protect defenders have not demonstrated the effectiveness that the situation requires. Examples of this are the absence of sustained dialogue between the Government and the defenders; some appointments and promotions of members of the security forces who have been questioned about alleged human rights violations; and the repeated failure to abide by Presidential Directive No. 07 with no sanctions being taken. These considerations might indicate that the authorities have not made an authentic commitment to deal with this problem and that they have a limited awareness of the positive role that defenders could play in strengthening democracy.

368. This year again, the High Commissioner is deeply concerned to note that a large number of trade union members - both leaders and regular members - were the victims of killings, threats and attempted murder, and that the incidents subsequently went unpunished. This highlights the inadequacy and ineffectiveness of the Government's measures to protect trade unionists and to

safeguard trade union rights. The Ministry of Labour has made efforts to obtain commitments through the Inter-Institutional Commission on Workers' Human Rights, but there has been no corresponding action by other government bodies to make the commitments adopted effective. This has led to the regrettable suspension of the Commission's meetings since September.

369. Other groups continued to suffer extreme vulnerability, which affected their fundamental rights, including the right to life. These groups include journalists and social communicators; university professors and students; members of political organizations, in particular the Unión Patriótica; former rebels; people with HIV/AIDS; and sexual minorities. The situation of these groups indicates that they are seriously restricted in terms of the right to equality and non-discrimination, the exercise of political rights and freedom of opinion, expression and education.

370. With regard to protection of the groups at risk, in particular vulnerable groups, the State has made noteworthy efforts under the Ministry of the Interior's protection programmes. The High Commissioner regrets, however, that these programmes continue to be affected by financial, administrative and structural shortcomings that compromise the effectiveness and timely implementation of protection measures. Similarly, the High Commissioner regrets that the application of these measures has not been accompanied by others meant to prevent attacks, reduce risks and punish those responsible. The High Commissioner welcomes the fact that the Ministry of the Interior is supporting her recommendation concerning external evaluation of the protection programmes. However, she is concerned that intelligence files containing inaccurate or inappropriate information about human rights defenders continue to exist.

371. The situation of the indigenous and Afro-Colombian communities continued to decline progressively and systematically, with a notable increase in violations of their fundamental rights, in particular as the victims of killings, threats, enforced disappearance, displacement and failure to respect their specific rights. The High Commissioner is concerned and warns that some statements by regional authorities groundlessly question or cast doubts upon the integrity of indigenous leaders or their communities. It is also worrisome that the Inter-Institutional Commission on Human Rights of Indigenous Peoples has not produced results because of lack of continuity and follow-up. The native islander community continued to be the victim of discrimination, intolerance and threats to its cultural identity. The same may be said of the Roma people, with ignorance of their ethnic identity an aggravating factor.

372. The High Commissioner concurs with the observations of the Committee on Economic, Social and Cultural Rights, and she reiterates her concern that the State has not given these rights due attention so as to achieve progress in narrowing the inequality gap and improving the situation of the most disadvantaged groups, or in areas such as employment, education (including human rights teaching), access by the poor to health services, housing and other basic rights. She further notes that the guerrilla attacks on the civilian population, civilian properties and State infrastructure have undermined the enjoyment and exercise of these rights.

373. The High Commissioner observed with concern the significant deterioration in the rights of the child. Minors continued to be among the most vulnerable victims of the armed conflict. Many continued to be recruited by armed groups and others were the victims of kidnapping. Domestic violence, sexual abuse, different forms of exploitation and child labour continued to

exist. The High Commissioner welcomes the entry into effect of Act No. 679 of 2001, meant to counter exploitation, pornography and sexual tourism involving minors. However, she deplores the fact that a high number of boys and girls live on the streets. She regrets that programmes for comprehensive care for children who have disengaged from the armed conflict are not available to those who have been captured, and that the process of bringing domestic legislation into conformity with the Convention on the Rights of the Child remains pending.

374. Women continued to be victims of discrimination, especially in the spheres of education, employment and participation in political life. They also suffer from domestic violence, sexual abuse and trafficking in human beings. The High Commissioner is concerned to observe that, in the context of the armed conflict, some women were the victims of sexual aggression before being put to death and others were subjected to forced labour and sexual slavery in the ranks of the illegal armed groups. Another serious reason for concern is the fact that women are severely affected by internal displacement and that this aggravates their conditions of exclusion and poverty. The special vulnerability of indigenous and Afro-Colombian women is also worrisome. As in 2000, it was observed that the programmes and standards provided for as part of a gender policy have not substantially altered women's situation of inequality and vulnerability. On this aspect, it must be said that women are absent from the peace negotiations and that there is no special social reintegration programme for female former combatants.

IX. RECOMMENDATIONS

375. As noted in the preceding paragraphs, the Colombian State and the Office had the opportunity to examine jointly the recommendations issued by the latter in its midyear report. The authorities of the national institutions highlighted the usefulness and pertinence of a great number of the recommendations and made a commitment to providing adequate follow-up for their implementation. Many of these recommendations are taken into account in this chapter.

376. The United Nations High Commissioner for Human Rights, in accordance with the Agreement establishing her Office in Colombia and the statements, observations and recommendations made to the Colombian State by various United Nations organs and mechanisms, issues the following recommendations:

Recommendation No. 1

377. The High Commissioner reiterates that both she and her Office are fully available and willing to assist the Government, other State institutions and civil society in the search for mechanisms to deal with the complex and critical situation in Colombia regarding matters within her mandate. The High Commissioner invites the Government to increase its dialogue and cooperation with her Office and render them more effective, in order to glean the fullest benefits from its mandate.

Recommendation No. 2

378. The High Commissioner encourages the Colombian Government to give priority to policy on human rights and international humanitarian law by means of comprehensive action that manifests coherent and unequivocal commitment. She urges it to adopt the measures and

decisions necessary to guarantee the rule of law, the strengthening of civil institutions and the exclusion of policies and programmes that are incompatible with these objectives. In particular, she urges the Colombian authorities to pay special attention to the provisions of the National Security and Defence Act which are not in accordance with international standards. She also urges the authorities to refrain from enacting criminal legislation incompatible with international commitments. The design and implementation of a concerted national plan of action on human rights and international humanitarian law should enhance the enjoyment of such rights.

Recommendation No. 3

379. The High Commissioner urges the Government to strengthen human rights and international humanitarian law programmes and policies and mechanisms to ensure their effective implementation. To this end, she encourages the Colombian State to pursue and abide by the international recommendations in this area, including the commitments that have arisen from the discussion of the midyear report by the Office in Colombia. She also urges the Government to invite the thematic representatives of the Commission on Human Rights to visit the country so that they may contribute by identifying the difficulties in their respective areas and developing proposals to overcome them.

Recommendation No. 4

380. The High Commissioner again encourages the Government, the armed factions and Colombian society to continue efforts to reach a negotiated solution to the armed conflict, with participation that represents the civilian population, including women. She also urges the authorities to make this fundamental objective a State policy irrespective of changes in Government. Likewise, she reiterates her recommendation that the parties should consider as a matter of urgency the adoption of a global agreement on human rights and international humanitarian law.

Recommendation No. 5

381. The High Commissioner strongly encourages all the parties to the conflict to abide strictly and unconditionally by humanitarian principles and to refrain from all acts that may injure or endanger persons and property protected by international humanitarian law. She urges the non-State armed groups to release unconditionally and immediately all the persons who have been taken hostage. She also notes that it is essential for all persons deprived of liberty in the context of an armed conflict to be treated in a humane manner, and for the sick and wounded to be given adequate and timely medical care. She calls on the armed groups to permit access by humanitarian organizations to persons deprived of their liberty.

Recommendation No. 6

382. The High Commissioner urges the Colombian State to guarantee the effective enjoyment of fundamental rights and freedoms throughout the national territory, without exception.

Likewise, she calls upon FARC to abide fully by the rules of international humanitarian law, to respect the national authorities, the people's legitimate exercise of human rights and their access to the mechanisms and resources that guarantee these, especially in the demilitarized zone.

Recommendation No. 7

383. The High Commissioner calls upon the authorities of the three branches of State power firmly to respect and guarantee the autonomy and independence of judicial officials by ensuring that the judiciary's inherent power to administer justice is reflected in the laws, decisions and actions that the State adopts or enacts. Likewise, she urges the State to adopt the measures needed to investigate, punish and make reparation for grave human rights violations and breaches of international humanitarian law through the rulings of the ordinary justice system, and to prevent impunity. To this end, she recommends the following:

(a) The State should reinforce the work of the Special Committee to Promote the Investigation of Human Rights Violations and Breaches of International Humanitarian Law, and should involve all institutions in the implementation of the commitments therein;

(b) The State, through the Ministry of Defence, should guarantee the cooperation of the security forces in its commitment to combat impunity;

(c) The Attorney-General's Office should take the lead in action to combat impunity in respect of human right violations and breaches of international humanitarian law, in a coherent manner and in accordance with international norms and recommendations, by guaranteeing independent and impartial investigations;

(d) The State should undertake the necessary efforts to ensure the correct application and interpretation of the ordinary and military criminal laws, in the framework of the case-law of the Constitutional Court and of international laws and recommendations in this area.

Recommendation No. 8

384. The High Commissioner urges the competent authorities to adopt legislative and administrative measures to ensure that all citizens have access to timely and effective justice and that the full exercise of their right to a defence is guaranteed. She also urges the Colombian State to supply all the means needed to provide adequate protection for those who administer justice and participate in legal proceedings as victims, witnesses for the defence, claimants for criminal indemnification or investigators. In this area, the following is recommended:

(a) The State, by means of the Supreme Judicial Council, the Attorney-General's Office, the Procurator-General's Office and the Ombudsman's Office, should guarantee the presence of the administration of justice throughout the national territory, in conditions that are conducive to the due performance of its functions;

(b) The Attorney-General's Office should implement the recommendations set out in the analysis of the protection programme for victims, witnesses and others involved in criminal

proceedings and officials of the Attorney-General's Office, with the financial support from the State. In turn, the State should guarantee specific programmes for officials from other judicial and oversight bodies in order to ensure their adequate protection;

(c) The Government, as part of its policy to combat impunity, should provide firm financial support to the National Department for Public Advocacy, through the Office of the Ombudsman, as well as to the Office of the Procurator-General and to the Office of the Attorney-General, so as to guarantee due process under conditions of equality.

Recommendation No. 9

385. The High Commissioner recommends that the State should adopt and apply a democratic and rights-based policy on crime, through the concerted design of social policies to prevent violence and address conflicts within the prisons. In this connection, she urges that the Constitutional Court rulings on petitions for protection in cases T153 of 1998 and T847 of 2000 should be duly observed. The High Commissioner invites the Colombian Government to cooperate with her Office in Colombia in examining the recommendations issued by the international Mission on prisons in order to put them into practice efficiently.

Recommendation No. 10

386. The High Commissioner strongly urges the Colombian State to combat paramilitarism effectively and to dismantle it permanently by arresting, prosecuting and punishing everyone who encourages, organizes, leads, participates in, supports or finances it, including public servants who have ties to it. In this context, she recommends the following:

(a) The Government should translate its strong words and commitment to fight paramilitarism into systematic, comprehensive and effective action;

(b) The State should give special priority to combating impunity by ensuring that investigations advance and involving those responsible in the different spheres of action;

(c) The State should ensure effective prevention, and protection of the civilian population from the actions of these groups.

Recommendation No. 11

387. The High Commissioner once again urges the Government to invest efforts in the immediate design, financing and implementation of effective and comprehensive mechanisms for preventing and reacting to situations about which it has received information and warnings concerning human rights violations or breaches of international humanitarian law.

Recommendation No. 12

388. The High Commissioner urges the Colombian State to adopt all necessary measures to guarantee respect for and protection of the life and physical integrity of human rights defenders, including preventive actions to impede murder attempts and reduce the risk factors for this group. Likewise, she urges the competent authorities to undertake exhaustive investigations of cases of violations against human rights defenders so as to identify and punish those responsible for planning and perpetrating these incidents. In particular, the High Commissioner recommends the following:

(a) The Government should ensure the timely dissemination and effective application of Directive No. 07 of 2000, impose exemplary disciplinary sanctions on lawbreakers and apply appropriate remedies;

(b) The Procurator-General's Office should uphold its commitment periodically to review military and police files so as to identify inaccurate or inappropriate information about human rights defenders and, if necessary, correct it;

(c) The Government should host periodic meetings with human rights defenders in order to facilitate dialogue, agree on actions to prevent violations and guarantee the effective protection of this group and seek their observations on the Government's human rights programmes and policies.

Recommendation No. 13

389. The High Commissioner urges the State to guarantee workers' human rights and the exercise of trade union rights. She encourages the authorities to adopt the relevant measures to protect the life and physical integrity of trade union members and leaders, and to join efforts with employers to implement all necessary measures to this end. The High Commissioner also urges that the international recommendations in this area, particularly those of the International Labour Organization, should be followed by and implemented. In this context she recommends the following:

(a) The State should promote the investigation of human rights violations against trade unionists and take all necessary measures to eliminate the impunity that has prevailed in such cases;

(b) The Ministry of Labour should take appropriate action to enhance the effectiveness of the work of the Inter-Institutional Commission on Workers' Human Rights, and to end the current impasse;

(c) The State should adopt measures to reduce insecurity for trade unionists and to counter risk factors.

Recommendation No. 14

390. The High Commissioner urges the State to guarantee the human rights of ethnic groups, such as the indigenous communities, Afro-Colombians, native islanders and Roma people, and protect them from discrimination, exclusion and intolerance. She encourages the authorities to adopt the necessary preventive measures and to protect the life and physical integrity of the members of these communities and their leaders by concluding agreements with them on programmes adapted to their specific needs. She equally urges the State to ensure the effectiveness of the forums and mechanisms for consensus-seeking with ethnic groups in order to develop effective policies for response, prevention and protection and guarantee cultural preservation. She asks the parties to the conflict to respect the communities' authorities and leaders, as well as the autonomy of their territories. The High Commissioner urges the following:

(a) Priority should be given to compliance with the accords signed by the Government and the indigenous, Afro-Colombian and native islander communities, and the State should define and implement comprehensive policies to guarantee the enjoyment and exercise of the specific rights of these communities, including those of the Roma people; as laid down in the Colombian Constitution;

(b) The State should provide timely follow-up and should implement the recommendations of the Committee on the Elimination of Racial Discrimination and those of other international bodies;

(c) Racial discrimination should be categorized as a crime in the Penal Code.

Recommendation No. 15

391. The High Commissioner urges the State to take responsibility for preventing displacement through the immediate implementation of a strategy to protect the civilian population compatible with the Constitution and international principles and recommendations. She also urges effective action to combat impunity for those responsible for displacement. Likewise, she encourages the authorities to use a differentiated approach for different population groups, with regard both to registration and to emergency humanitarian aid and lasting solutions. To this end, the High Commissioner urges the following:

(a) With regard to prevention:

(i) Sufficient human and economic resources should be assigned to the institutions responsible for preventing displacement;

(ii) Special protection should be provided to the indigenous and Afro-Colombian communities most at risk by ensuring the permanent presence of State institutions such as the Ombudsman's Office of the People's Advocate and international monitors, in conditions that enable them to function effectively;

(iii) The security forces should be given guidelines on the need to grant priority to protection of the population and any failure to do so should be punished;

(b) With regard to a differentiated approach:

(i) Further efforts should be concentrated on the information campaign for displaced persons;

(ii) Access to State programmes, including emergency humanitarian assistance, should be ensured by means of registration, in accordance with the Guiding Principles and the Constitution;

(iii) Priority should be given to voluntary return, with efforts made to restore conditions of security and dignity. If this is not possible, increased efforts should be focused on providing, within a reasonable time, solutions that guarantee self-sufficiency, particularly in urban areas, with emphasis on special programmes for women heads of household.

Recommendation No. 16

392. The High Commissioner urges the State to adopt all necessary and timely measures to protect the fundamental rights of the most vulnerable groups, including the right to life and the physical integrity of their members. To this end, she encourages the Government to continue to press for the evaluation of the Ministry of the Interior's protection programmes, and then to implement the recommendations that arise from this process. Likewise, she urges the State to act diligently by taking appropriate measures to guarantee respect for the right to equality and non-discrimination, the exercise of political rights and freedom of opinion, expression and information. She also urges the State to adopt adequate measures to guarantee free and democratic elections throughout the national territory and appeals to the illegal armed groups to respect the citizenry's exercise of its political rights.

Recommendation No. 17

393. The High Commissioner notes with concern the serious and persistent economic crisis affecting the country, aggravated by the world recession, and she urges the Government to focus its economic and social policies on the most disadvantaged groups, with a view to achieving significant reductions in poverty and the equity gap. She also calls upon the Government to establish indicators and mechanisms to evaluate the impact and results of these policies. Likewise, she urges the State to follow up on the recommendations of the Committee on Economic, Social and Cultural Rights.

Recommendation No. 18

394. The High Commissioner stresses the need to ensure the effective enforcement of the principle of equality and non-discrimination and calls upon the State to implement a comprehensive gender policy. She urges the State to combat the inequalities that exist between

men and women, especially in the areas of education, employment and political participation, and to establish mechanisms that measure the impact of the measures adopted. Likewise, the High Commissioner urges the State to increase its efforts to protect women from domestic violence, trafficking in human beings and the effects of the armed conflict. In this connection she urges the State to ensure the active participation of women in the peace negotiations and she calls for the development and implementation of programmes for the social reintegration of female former combatants.

Recommendation No. 19

395. The High Commissioner urges the State to adopt measures to eliminate the widespread violence against boys and girls. Likewise, she calls for effective action to protect the economic, social and cultural rights of minors, particularly in health care and education, including those of displaced children. She urges the State to prevent, counter and eliminate child labour, exploitation and the sexual abuse of minors, as well as the root causes of the problem of street children. She reiterates the need for the authorities to adopt urgent measures to provide minors who have been removed from the armed conflict with comprehensive care, without discrimination between those who have disengaged voluntarily and those who have been captured. In this connection, she calls on the illegal armed factions to cease recruiting children and immediately release the children in their ranks. The High Commissioner also reiterates her recommendation that the Minor's Code should be brought into line with the Convention on the Rights of the Child.

Recommendation No. 20

396. The High Commissioner once again urges the Government and particularly the Ministry of Education to guarantee the proper teaching of human rights at all levels of education. She reiterates the request for the elaboration of a national plan of action for human rights education, within the framework of the United Nations Decade for Human Rights Education. In addition, she highlights the need to include knowledge and respect for human rights and international humanitarian law among the criteria for evaluation and promotion in the military.

Recommendation No. 21

397. With the objective of improving human rights protection, the High Commissioner recommends the ratification of the international instruments on the subject. In this connection, the High Commissioner reiterates that the State should:

(a) Ratify the Statute of the International Criminal Court;

(b) Acknowledge the authority of the Committee on the Elimination of Racial Discrimination, in accordance with article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, as well as the authority of the Committee against Torture, in accordance with article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Ratify ILO Convention No. 102 on social security;

(d) Ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;

(e) Ratify the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, as well as ILO Convention No. 182 on the worst forms of child labour;

(f) Ratify the Inter-American Convention on Forced Disappearance of Persons.

Notes

[1] An example of this is provided by the enforced disappearance in August 1987 of Nidia Erika Bautista, which more than 13 years later is still the subject of a criminal investigation, and the disappearance in Medellín in October 2000 of Claudia P. Monsalve and Ángel Quintero Mesa, human rights defenders, and possible links with illegal telephone taps in Medellín (see chap. VI.F below).

[2] The Office attended, as an observer, meetings of the Special Committee to Promote the Investigation of Human Rights Violations, the Inter-Institutional Commission on Workers' Human Rights, the Intersectoral Coordination and Follow-up Committee on National Human Rights Policy and International Humanitarian Law, the Ministry of the Interior's Protection Programme Risk Evaluation Committee, and the Inter-Institutional Committee on Human Rights of Indigenous Peoples, among others.

[3] See E/CN.4/2001/15, para. 238 (b).

[4] Seminar: Human Rights in the Administration of Justice, Andean Commission of Jurists - United Nations High Commissioner for Human Rights. November 2001. Lima, Peru.

[5] See report of the Special Representative of the Secretary-General on human rights defenders on her visit to Colombia (E/CN.4/2002/106 and Add.1 and 2).

[6] See report of the Special Rapporteur (E/CN.4/2002/83 and Add.1-3).

[7] This cooperation became particularly important in the period subsequent to the period covered by this report owing to the fact that the involvement of the Special Adviser and the international community was decisive in overcoming the crisis of December 2001. On 20 February 2002, however, the President announced the breakdown of the peace dialogue with FARC with the re-emergence of armed conflict.

[8] See Security Council resolution 1373 (2001).

[9] Colombia has ratified most of the main international human rights instruments, such as the International Covenant on Civil and Political Rights and its Optional Protocol, the International

Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child; it is a signatory to the Rome Statute of the International Criminal Court. It is also a party to most of the human rights treaties in the inter-American system, such as the American Convention on Human Rights, the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, and it is a signatory to the Inter-American Convention on the Forced Disappearance of Persons (see chap. VII.2 below).

[10] In this respect attention should be drawn to the difficulties mentioned in chapter III above in connection with the determination of responsibilities.

[11] The Inter-American Commission on Human Rights has stated: "The duty to respect entails that the States must ensure the effectiveness of all the rights contained in the Convention by means of a legal, political and institutional system appropriate for such purposes. ... These obligations of the States are related to the duty to adopt such domestic legislative provisions as may be necessary to ensure exercise of the rights ... As a corollary to these provisions, there is the duty to prevent violations and the duty to investigate any that occur, since both are obligations involving the responsibility of the States" (report No. 1/96, case 10,559, Chumbivilcas, Peru, 1 March 1996). In turn, the Inter-American Court of Human Rights has stated: "The promulgation of a law that manifestly violates the obligations assumed by a State upon ratifying or acceding to a Convention constitutes a violation of that treaty and, if such violation affects the guaranteed rights and liberties of specific individuals, gives rise to international responsibility for the State" [International responsibility for the promulgation and enforcement of laws in violation of the Convention (American Convention on Human Rights, arts. 1 and 2), advisory opinion OC-14/94 of 9 December 1994, Series A: Judgements and opinions, No. 14, para. 50]. The Court reiterated these principles in its ruling of 14 March 2001, handed down in the Barrios Altos case (Series C: Decisions and judgements, No. 73, paras. 39 and 41-43).

[12] See third report of ONUSAL, 19 February 1992 (A/46/876, para. 29).

[13] Ibid., para. 30. See also Inter-American Court of Human Rights, Velásquez Rodríguez, Judgement of 29 July 1998 (Series C: Decisions and judgements, No. 4). In paragraph 177 of this judgement, the Court refers to the legal duty of the State to investigate violations and adds: "This is true regardless of what agent is eventually found responsible for the violation. Where the acts of private parties that violate the Convention are not seriously investigated, those parties are aided in a sense by the Government, thereby making the State responsible on the international plane." The Commission on Human Rights Special Rapporteur on summary or arbitrary executions has stated: "Where a Government's practice fails to meet the standards set forth in the Principles on effective prevention and investigation of extralegal, arbitrary and summary executions … the Special Rapporteur will consider such failure as an indication of that Government's responsibility, even where government officials are found not to be directly involved in the acts of summary or arbitrary execution" (E/CN.4/1991/36, para. 591).

[14] According to data from the Vice-Presidential Monitoring Centre for the presidential human rights and international humanitarian law programme.

[15] For the purposes of this report, the Office defines enforced disappearances only as those actions in which the perpetrators are the persons referred to in the international instruments on the subject.

[16] In 56 per cent of the cases analysed in this study, the accused were arrested in flagrante delicto, whereas only 35 per cent were arrested on the basis of a court order and 6 per cent were the subject of "administrative arrests" (see also chap. II above).

[17] See document E/C.12/1/Add.74.

[18] www.incora.gov.co (Colombian Institute for Agrarian Reform).

[19] See "Human Development Report on Colombia 2000", UNDP, National Planning Department (DNP), Misión Social.

[20] Alternative report to the fourth periodic report of Colombia on the implementation of the International Covenant on Economic, Social and Cultural Rights.

[21] DANE estimates, National Household Survey, March 2000.

[22] See note 17 above.

[23] Prepared by El Tiempo publishers, the Fundación Corona and the Fundación Antonio Restrepo Barco, November 2001.

[24] See note 17 above.

[25] Composed of representatives of women's organizations, human rights organizations, social organizations, and other national and international agencies.

[26] Events occurring between 16 and 19 February 2000 (see E/CN.4/2001/15, paras. 30, 135 and 139).

[27] Dialogue with displaced women, UNHCR, May 2001.

[28] On this subject, see Security Council resolution 1325 (2000) of 31 October 2000.

[29] Figures from the National Planning Department.

[30] See note 17 above.

[31] Kidnappings by participants in the armed conflict are defined as "taking of hostages" under international law.

[32] According to figures from the Fundación País Libre (Free Country Foundation).

[33] The investigations into the massacres in Buga, Alto Naya and Chengue, among others, and the murders of union leaders such as Wilson Borja and Aury Sara are examples.

[34] The difficulty of determining responsibility for such acts is also mentioned in chapter II.

[35] A government institution dealing with displacement.

[36] The Thematic Working Group on Displacement, in its report "Estado de situación del desplazamiento", dated August 2001, reports the sum of 161,999 million pesos allocated by CONPES for 2001-2002.

[37] The data cited come from the Network's document "Atención a población desplazada por la violencia en Colombia. Informe de Gestión enero de 2000-junio de 2001".

[38] The data indicate more than 1,000 people per day or 44 per hour.

[39] According to the Network, 50,035 people were displaced in 2000, compared to more than 45,000 in the first six months of 2001, which represents a projected total of 90,000 for the year as a whole.

[40] As pointed out in other parts of this report, the authorities are investigating some of the paramilitary massacres that gave rise to displacement, in order to determine possible responsibility on the part of public officials.

[41] A persistent problem is that the data show little agreement on responsibility, not just between government and NGO sources (in the first half of 2001, the Network attributed 19 per cent of cases to the guerrillas, whereas CODHES blamed them for 35 per cent), but even among government sources themselves (the Network attributed 58 per cent of cases to the paramilitary forces in 2000, whereas the Ministry of Defence blamed them for 71 per cent).

[42] The Thematic Working Group on Displacement reports in the same document (see note 36 above) that members of ethnic groups at times account for 38 per cent of the displaced population.

[43] Several displacements of Afro-Colombians took place just at the time collective land title was granted (Act No. 70).

[44] Presidential Order No. 6 of 28 November 2001 urges the Attorney-General's Office to carry out prompt and effective investigations into actions resulting in displacement.

[45] Departmental, district and municipal committees for assistance to the displaced population, as

[46] SAT, instituted by the Ombudsman's Office during the second half of the year, is a valuable initiative, but is expected to be fully operative in only five regions by the end of 2001. From July to mid-November, a period in which, according to the Network, there were nearly 6 displacements a day - i.e. nearly 800 displacement events in all - SAT issued 42 warnings, whose effectiveness in terms of response by other agencies cannot be evaluated. Furthermore, it appears to concentrate more on pre-warning risk analysis (carried out by the Basic Studies Unit) than on specific monitoring of State response and the real post-warning situation in communities that have been threatened or otherwise affected.

[47] The Displaced Persons Unit of the Ombudsman's Office is doing excellent work, despite the fact that it has only three staff to handle six displacement events per day, according to the Network.

[48] The Constitutional Court, in judgement T327 of 26 March 2001, agreed that this mechanism has not been successful in systematically protecting the fundamental rights of displaced persons.

[49] The Network and the Prosecutor's Office, working with UNHCR and this Office, trained approximately 300 municipal ombudsmen on this subject over the course of the year, in accordance with Constitutional Court guidelines.

[50] This judgement is of primary importance because it draws attention to the violations of fundamental rights that go hand in hand with forced displacement; State responsibility for the failure of protection mechanisms; the de facto pattern of displacement; the presumption of good faith on the part of the State; and the resulting inversion of the burden of proof.

[51] In the case of Villavicencio, the Office took the initiative and, jointly with UNHCR, the Ombudsman's Office and the Network, organized an information day for displaced persons.

[52] Introduced in Decree No. 2569/2000, which stipulates that, in order to be registered as a displaced persons, a victim must declare his or her status as a displaced person within one year of being displaced.

[53] This is so exceptional that in Bogotá only eight families benefited from this provision during the first 10 months of the year.

[54] A total of 3.75 billion pesos for the period 2001-2002, according to the Thematic Working Group on Displacement (see note 36, above).

[55] As recommended by an ad hoc commission on which the Office and UNHCR were represented, which visited the area of origin.

[56] On 4 October 2001, the Council of State ordered the Attorney-General's Office to ensure full implementation of the administrative career track within a maximum of one year.

[58] Now known as the National Human Rights and International Humanitarian Law Unit, following the Attorney-General's decision No. 0-1560 of 22 October 2001.

[59] See E/CN.4/2001/15, para. 130.

[60] Members of the security forces were reported to have threatened the judge investigating the paramilitary massacre in Mapiripán, Meta.

[61] See E/CN.4/2001/15, para. 160 and E/CN.4/2000/11, para. 48.

[62] Judgement No. T847/00 protects detainees' rights: to due process, not to be subjected to cruel, inhuman or degrading treatment, and to equality, life and health.

[63] At Girardot police station, on 17 October 2001, the Mission found 25 convicted persons and 135 accused in an area intended to hold 40 people.

[64] During visits to Kennedy police station on 5 and 17 October, several minors, boys and girls, were found to be sharing a cell measuring 6 square metres with adult men and women.

[65] Director of the INPEC Human Rights Unit, Colonel Moreno: communication to the delegation, 17 October 2001.

[66] Act No. 65, arts. 10 and 12, and Basic Principles for the Treatment of Prisoners, arts. 5-10.

[67] Standard Minimum Rules for the Treatment of Prisoners, arts. 46 ff.

[68] Circular No. 0082 of 22 May 2000.

[69] The Code of Penal Procedure, art. 79, establishes a mechanism for judicial control of administrative benefits.

[70] Prison Code.

[71] This facility is intended for convicts serving prison sentences of more than 15 years, who have certain additional required characteristics (Directive No. 0016 of 28 December 2000).

[72] The transfer of accused persons to Valledupar prison prevents defence lawyers from contacting their clients or appearing for court proceedings on the date for which they have been called, in cases where neither the case file nor the defence counsel is based in that jurisdiction.

[73] E/CN.4/2001/15, para. 167.

[74] The Risk Control and Evaluation Committee is an inter-institutional committee, presided over by the Minister of the Interior and comprising representatives of State institutions and target groups, which reviews applications for protection and authorizes risk analyses and appropriate protection measures in the context of the human rights defenders protection programme, which extends to trade union leaders (see chap. VII.D above).

[75] ILO, Third report of the Special Representative of the Director-General for cooperation with Colombia (GB/281/7/1, p. 4).

[76] Inhabitants of the San Andrés, Providencia and Santa Catalina islands, an English-speaking (Creole) people of Antillean origin.

[77] CERD/C/304/Add.76, paras. 13 and 17.

[78] According to figures from the Fundación para la Libertad de Prensa (Foundation for Freedom of the Press).

[79] See chapter II of this report, on the publication and compilation of international recommendations to Colombia from 1980 to 2000, which has been prepared by the Office in order to ensure they are disseminated and promoted.

[80] See note 75 above.